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FOR THE

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YORK MEETING, 1864.

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LONDON:
LONGMAN, GREEN, LONGMAN, ROBERTS, AND GREEN.
1865.

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83A FARRINGDON STREET, E.C.

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Rights and Privileges of Members.

XIX. Every Ordinary Member has the rights of attending and voting at the Annual Meeting, the Business Meeting of Members, and all other General Meetings of the Association, of being eligible to any of its offices, and of receiving gratuitously its *Transactions.*

XX. Any Ordinary Member whose name has been submitted for that purpose to and approved by the Executive Committee, and who pays an additional annual subscription of One Guinea, or an additional life subscription of Ten Guineas, has the privileges of attending and voting at the Special Meetings mentioned in Law XVIII. of receiving all publications issued in connexion with such Meetings, and of the using the Library at the Office of the Association.

XXI. Every Corporate Member receives gratuitously a copy of the *Transactions*, and may nominate two representatives to attend the Meetings of the Association.

XXII. Every Foreign Corresponding Member has all the rights of an Ordinary Member, except that of eligibility to the Council.

XXIII. Every Associate has the right of attending and voting at the Annual Meeting, held under Law XIV.

The Standing and other Committees.

XXIV. A Standing Committee for each Department is annually elected at the Business Meeting of Members. A Standing Committee has the power of appointing Subcommittees.

XXV. Special Committees are appointed by the Association or by the Council, to consider and report on specific subjects of reference.

XXVI. The General Secretary and the Foreign Secretary are, *ex officio*, Members of every Committee and Subcommittee. The Secretary of each Department is, *ex officio*, a Member of every Committee and Subcommittee of such Department.

Constitution and Conduct of Meetings.

XXVII. For General Meetings of the Association twenty Members, for Meetings of the Council seven Members, for those of the Executive Committee five Members, and for those of other Committees and Subcommittees three Members form a quorum.

XXVIII. At all the aforesaid Meetings the Chairman has a vote; if the votes be equal he has also a casting vote.

XXIX. No original motion of which previous notice has not been given is put from the Chair at any Meeting of the Association held under Laws XIV., XV., or XVI.

Finances.

XXX. The funds of the Association are kept in its name at a Bank. All sums received on account of the Association are paid into the Bank; and all cheques on the Bank are drawn by order of the Council or of the Executive Committee, signed by the Treasurer, and countersigned by the General Secretary.

XXXI. At the Business Meeting of Members two Auditors, not being Members of the Council, are appointed, on motion, by show of hands, to audit the accounts for the ensuing year.

XXXII. The accounts of the Association are made up to the end of July in each year; and, after being duly audited, are appended to the Annual Report of the Council.

Vacancies in Offices.

XXXIII. The Council fills up any vacancy occurring during the year in any of the offices named in Law IX.

REGULATIONS FOR BRANCH AND LOCAL ASSOCIATIONS.

THE Association recognises two classes of Provincial Associations.

I. *Branch Associations*, of which the conditions are—

Their members to be members of the General Association, and to subscribe £1 1*s*. annually, or £10 10*s*. as a life payment.

All the subscriptions to be paid to the Central Office, but a part to be allowed by the Council towards the expenses of the Branch, in addition to any special grants that may be made.

The Branch Association to elect its own President, Secretary, and other Officers.

The Branch Association to elect annually not more than two members of the General Council.

II. *Local Associations*, of which the conditions are—

That the Local Association shall regulate the amount of its own subscriptions, but that every member on whose behalf 10*s*. shall be paid yearly into the general funds of the Association shall have the privilege at his option—

1. Of a copy of the *Transactions*.

2. Of attending the annual meeting of the Association, and of procuring a copy of the *Transactions* at a reduced price, to be annually fixed by the Council.

INCOME AND EXPENDITURE ACCOUNT.

For the year ending 31st July, 1864.

EXPENDITURE.		£	s.	d.
Publishing *Transactions* of 1862 (balance)		217	18	0
Editing and Publishing *Transactions* of 1863 (on account)		573	15	0
Publishing *Compte Rendu* of Congrès de Bienfaisance (balance)		62	9	9
Purchase of Library and Furniture of the Law Amendment Society (on account)		313	8	11
Rent of Offices		131	5	0
Salary of Assistant-Secretaries		329	3	4
Wages of Clerk, Messenger, and Housekeeper		80	12	6
Office Expenses and Insurance		114	0	7
Library		37	15	0
Printing		48	7	10
Printing Sessional Papers		50	15	10
Stationery		48	1	0
Delivery of volumes of *Transactions* of 1863		52	0	6
Advertising		29	11	10
Postage		78	18	7
Collector's Commission		40	16	0
Travelling Expenses		48	15	11
Committee on Elections		13	14	0
Incidental Expenses		18	13	0
Balance at Bankers' :—				
London and Westminster Bank	£316 8 10			
Ransom, Bouverie, and Co.	47 17 7			
		364	6	5
		£2,654	9	0

INCOME.	£	s.	d.
Balance at London and Westminster Bank, 1st August, 1863	72	13	8
Subscriptions received in London	962	17	0
Edinburgh Meeting: Remittance from Local Treasurer	1,500	0	0
Dublin Meeting: Balance remitted by Local Treasurer	6	13	6
Sale of *Transactions*, &c.	85	2	0
Sale of *Trade Societies' Report*	1	8	9
Sale of *Compte Rendu*	6	16	10
Interest on Deposit Account	18	17	3
	£2,654	9	0

Audited and found correct.
27th July, 1864.

SEYMOUR TEULON.
JOHN HOWELL.

INTRODUCTION.

THE Eighth Annual Meeting of the Association, held at York, from Thursday the 22nd to Thursday the 29th of September, 1864, under the presidency of Lord Brougham, was opened on the afternoon of the 22nd by a special service in the Minster, when a sermon was preached by his Grace the Archbishop of York. The opening address was delivered by Lord Brougham to the members and associates, in the Festival Concert Room, on the evening of the same day; and a vote of thanks to his Lordship, moved by Sir John Pakington, M.P., seconded by Mr. J. P. Brown-Westhead, M.P., and put to the meeting by the Lord Mayor, was carried by acclamation.

On the evening of Friday, the 23rd, a Working Men's Meeting was held in the same hall, at which more than 2,000 of the weekly wage class were present, and were addressed by Lord Brougham, Sir John Pakington, and other members of the Association. The highly successful arrangements for this meeting were made by Mr. S. W. North, who undertook the labour in addition to his other arduous exertions on behalf of the congress.

A Special Evening Meeting was held for a discussion on the best means of preventing bribery, corrupt practices, and extravagant expenditure at the election of Members of Parliament. Lord Brougham took the chair, and Sir Fitzroy Kelly, Mr. Edwin Chadwick, and others, addressed the members.

A brilliant *soirée* was given by the Local Committee in the

Assembly Rooms on the evening of the 27th; and on the following day a public dinner took place in the De Grey Rooms. A dinner and reception were also given at the Mansion House by the Lord Mayor and Lady Mayoress, to the principal members and the foreign visitors.

The addresses of the Presidents of Departments were delivered to the Association in the Festival Concert Room at the commencement of the day's proceedings, on the Friday, Monday, Tuesday, and Wednesday of the week. The Chairman of the Reformatory Section of the first Department, and of the Agricultural Section of the fourth, each delivered an address in his Section.

The concluding meeting was held on Thursday the 29th, when a Report from the Council and the Reports of the Committees of Departments were presented to the Association, and the customary votes of thanks were passed by the members and associates present. The Report of the Council was as follows:—

In presenting their Report of the Eighth Annual Meeting of the Association, the Council have to congratulate the Members and Associates on the interest and value of the proceedings brought to their close to-day. When the Council accepted the invitation of the city of York, they were well aware that a gathering of the same numbers as had attended at some of the previous meetings was not to be expected; but they looked to other results, which seemed to them of more importance in the way of opening up new fields for the inquiries of the Association, more especially as to the condition of the rural population. The Council have much gratification in stating that the number of Members and Associates present at the York Meeting, being 1,019, is larger in proportion to the inhabitants of the city, than on any previous occasion, and that in all other respects the Meeting yields to none of those that have preceded. The discussions that have taken place, looking either to the nature of the subjects, or to the speakers, have been of unusual value, and cannot fail to advance the objects of the Association; nor can the Council fail to express their earnest hope that the great assembly of working men on Friday evening last, may leave a lasting impression among the artisans of this city, of the interest taken by the Association in all that relates to their wellbeing. An Agricultural Section has, for the first time, been organised, and promises to be of great value at future meetings. Without in any way trenching

on the functions of agricultural societies, this Section may discuss a number of questions bearing on the productiveness of the soil, and the social condition of those employed in rural labour. In all the Departments a marked improvement has been observed in the conduct of the business, owing to the introduction of a system of special questions, and of discussions thereon. In several cases these discussions have been of great practical value, more especially those which have taken place in their respective Departments and Sections, relating to mental responsibility in criminal cases, middle-class education, the disposal of town sewage, the patent law, and uniformity of discipline in county prisons. On some of these and other questions resolutions have been sent up to the Council by the Committees of Departments, and will receive their early attention. The Council have received from the special Section on General Average, the Report which concludes the labours of that body. It will be remembered that at our Glasgow Meeting, in 1860, a conference of delegates from various nations was held on this subject, and in compliance with the resolutions of that conference the Council appointed a committee to prepare a Bill which might be adopted by the Legislatures of the different maritime countries of the world, as an international code of General Average. The Bill prepared by the committee has been at this meeting submitted to a conference of delegates, and, after a long discussion, has been finally settled and adopted by them. The Council trust that its provisions will be generally approved by the mercantile community, and will finally be ratified by our own Parliament, and by other Legislatures. The Council, in thus receiving the final report of their committee, have to express their obligations to Mr. E. E. Wendt and Mr. Richard Lowndes, who have acted respectively as chairman and secretary of the committee; and to tender their thanks to the foreign delegates who have attended on this occasion for their valuable assistance, and for the cordial spirit which they have shown in uniting to effect a common object. The Council, encouraged by the success which has followed their appointment of a Committee on General Average, and looking to the beneficial results that may ensue from a periodical gathering of delegates from various countries on those questions of commercial law which appear susceptible of international assimilation at the present time—such, by way of example, as the law of freightment and the law of bills of exchange—propose to appoint a small administrative committee, composed partly of foreigners, whose duty it shall be to convene a section of delegates and others at the Annual Meetings of the Association, to settle the specific questions for discussion in such section, and to make the other necessary preparations in our own and foreign countries. The Council believe that the course of action they propose will gradually promote uniformity of mercantile law in the different states of the world, and may thus pave the way for the ultimate adoption of an international commercial code. The Council have to report that they have elected Mr. Peabody and Dr. Jarvis, of Massachusetts,

United States, honorary members of the Association, the former, for his unprecedented munificence to the working classes, and the latter, for the valuable books which he has from time to time presented to the Association. The Council, in conclusion, beg to offer their sincere and hearty thanks to the Lord Mayor, the Local Committee, and the citizens of York, for their hospitable reception of the Association, and for their great and successful exertions at this Meeting. The Council also thank the Lord Mayor and Corporation for the use of the Guildhall and Council-room; the Yorkshire Philosophical Society, the Board of Poor-law Guardians, the York Union Lodge of Freemasons, the Committee of the Mechanics' Institute, and Mr. Hudson, the owner of the Victoria Rooms, for the accommodation afforded to the Departments and Sections. They also desire to record their obligations to the Dean and Chapter for their kindness n throwing open and lighting the Minster, and to the other public bodies who have allowed their institutions to be visited. To the Local Secretaries, both general and departmental, the Council offer their grateful thanks. The Association are also much indebted to the Railway Companies for their liberality in affording travelling facilities; and to the Press, both general and local, for their reports of the proceedings. The Council have only to add that the Committees of the Departments have sent up to them valuable reports which are appended hereto.

To the account of the York Meeting given in the above Report, and to the acknowledgements therein made, it is now only necessary to add that for the practical conduct of the business the Congress was, as usual, deeply indebted to the ability and zeal of the Secretaries of Departments; and that in recording the gratitude of the Association for the cordial and hospitable support accorded to it at York, we take the opportunity of thanking more especially the Rev. Thomas Myers, Mr. S. W. North, and Dr. Procter, for their great exertions as the General Local Secretaries in the management of this most successful and instructive meeting.

The Local Treasurer, some months since, handed over to the Council of the Association the total proceeds of the guinea and ten-shilling tickets sold at the meeting, amounting to the sum of £612 2*s*.

The work of the Association at York is recorded in this volume, but it remains to notice the proceedings of the Council since the publication of the *Transactions* for 1863.

On the 10th of May, 1864, a Special General Meeting of the members was held in Waterloo Place, to receive a Report from the Council, and to revise the Laws of the Association. The Report, which was printed and sent to every member, recommended the alterations in the number and style of the Departments, and the adoption of the regulations for papers and discussions, which were described in the introduction (p. xxxvii) to the *Transactions* for 1863 as having been approved by the Council. The Report also recommended the ratification of the agreement entered into with the Law Amendment Society, for a permanent union between that body and the Association. This Report was adopted, and the laws as amended were discussed and passed.*

The two principal measures approved on this occasion have been signally successful in their operation. The system of proposing special questions in each Department was found to work well at York, and it may be anticipated that still more beneficial results will accrue from its adoption as the experience of the officers and members increases. The union with the Law Amendment Society is universally admitted to have proved a benefit to both bodies. The number of members subscribing two guineas is steadily increasing,† and the meetings held in London have been of great interest and utility.

The first Business Meeting of the members, under Law XV., was held in Waterloo Place, on July 29, 1864.

The Messrs. Rivington having intimated that it was necessary for them to occupy the whole of their house in Waterloo Place for the purposes of their business, the Office of the Association was, in September last, removed to Adam Street, Adelphi, where arrangements have been made for obtaining further accommodation, if such should be required at any future time.

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* The Laws will be found at p. xxii.
† The present number is 327.

In pursuance of a resolution passed by the Department of Education at Edinburgh, in 1863, the Council resolved to memorialise the Government on the expediency of issuing a commission to inquire into the condition of middle-class education throughout the kingdom; and a deputation, consisting of Lord Brougham, Earl Fortescue, the Bishop of London, Lord Lyttelton, and other members, accordingly waited upon Lord Palmerston on June 18, 1864, to bring the subject before the notice of his Lordship as the Premier.*

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* The following memorial was presented to his Lordship by the deputation.

Memorial to the RIGHT HON. VISCOUNT PALMERSTON, K.G., First Lord of Her Majesty's Treasury, &c., &c., &c., from the Council of the National Association for the Promotion of Social Science.

The Council of the National Association for the Promotion of Social Science desire to represent to your Lordship the expediency of issuing a Royal Commission to inquire into the Grammar Schools in the kingdom, and other Endowed Schools not yet reported on, and thus to obtain much useful information as to the state of the Education of the Middle Classes.

The Association has from year to year collected a large amount of evidence bearing upon the condition of middle-class education, and there has been a general concurrence of opinion that it is at present in a most unsatisfactory state.

Several of the eminent men who have at our Annual Meetings filled the office of President of the Department of Education, have expressed themselves strongly to this effect.

Sir John Pakington, in his address, in 1857, remarked, that it was a great error to suppose that the only educational difficulties were those relating to the working classes. "I know," he said, "that the middle classes find themselves in a position of great difficulty on this subject. It is the respectable tradesman, the small farmer, the clerk, and men of that description who know not where to get education for their children, and who practically speaking pay very dearly for a bad article."

The Right Hon. William Cowper, in 1858, said, "The education given in the middle class and commercial schools is, generally speaking, as faulty, in comparison with all other education, as it is bad in itself. It has great pretension and show without substance or solidity. There is no superintendence whatever. There is no test of the capacity of the master, and no test of the success of his teaching. The parents are left to judge after their own uninstructed notions, of the excellence of the school, and generally pay most attention to what is really of the least importance."

In 1859 the Right Hon. C. B. Adderley pointed out that the middle-classes have reason to be dissatisfied with their present means of education, the private commercial and endowed grammar schools of the country; and Sir John Shaw Lefevre, in 1861, speaking of the Civil Service Examinations for appointments, which are filled up from the middle classes, as a practical test of the education they receive, said, "I may mention the incredible failures in orthography, the miserable writing, the ignorance both of the elementary theory and practice of arithmetic. It is comparatively rare to find a candidate who can add correctly a moderately long column of figures, and many do not understand common notation so as to write down in figures a number described in words. When the examination extends to English composition, or history, the performances of some of the candidates are poor beyond belief, and we are under the necessity of keeping

A Royal Commission has been issued in consequence of the representations of this deputation, and has commenced the work of inquiry.

Another educational question in which the Association has taken interest* was in a great measure settled a short time since by the decision of the Senate of the University of Cambridge to admit girls to their local examinations. A similar

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the standard very low, in order to prevent the public inconvenience which would arise from an indiscriminate rejection."

Mr. Nassau Senior, quoting, in his address to the Association last autumn at Edinburgh, the above passage from his predecessor's observations, and enforcing it by his own opinion, proceeded to make the following suggestion :—

"The first step towards a remedy for this lamentable state of things, is to know accurately the amount and the causes of the evil. And for this purpose, I venture to propose that this Association petition the Crown to issue a commission to inquire into the present state of the education of the middle classes in the British Islands, and to consider, and report, what measures, if any, are required for the extension of sound education to these classes."

This recommendation of their President was duly considered by our Department of Education, and a resolution was unanimously passed requesting the Council to use their endeavours for the issue of such a Commission as was proposed by Mr. Senior.

In the performance of the duty thus cast on them, the Council approach your Lordship to-day, and they may be permitted to say that the recent loss incurred by the Association in the death of Mr. Senior, makes them the more solicitous that his advice, given on the last occasion of his performance of any public duty, should not be disregarded.

The Council would further observe that full and searching inquiry has recently been made into the state of education among two considerable classes of society; the one by the Commission "to inquire into the revenues and management of certain colleges and schools, and the studies pursued and the instruction given therein;" the other by the Commission "to inquire into the state of popular education in England;" that much valuable information was obtained in each case, and that considerable improvements by legislation and otherwise, have already resulted, or may be expected to result in the education of the children of the rich, and of those of the class who live by manual labour. These facts seem to constitute a claim for some inquiry on behalf of that large portion of Her Majesty's subjects who cannot look for the education of their children either to the great public schools on the one hand, or the national schools on the other. Earl Fortescue, in a work just published, has pointed out the injustice of leaving this class in their present educational position, and has shown that an authoritative inquiry may be conducted on their behalf without involving any more interference with private instruction than has been the case with the Commission already issued.

This appears from the fact that there are in this country some hundreds of Grammar Schools and other Endowed Schools, which have never yet formed the subject of adequate inquiry, and which might probably be made available for supplying in a great degree the want of efficient education for the middle classes. It is true that these foundations were inquired into by the Charity Commissioners, but the investigations of that body were mainly directed to the amount and use of the endowments, and not to the education imparted in the schools.

The Council would strongly urge on your Lordship the necessity for inquiry

* See *Transactions*, 1863, p 354, *et seq.*

resolve had been previously taken by the University of Edinburgh, on the institution of examinations of the same kind for Scotland. This important step in advance as respects female education, is in a great degree owing to the persevering and judicious exertions of Miss Emily Davies, whose paper on the subject will be found in this volume. The beneficial results which may be anticipated from subjecting the education of girls of the upper and middle classes to an effective test, will be aided by the inquiries into the condition of girls' schools which the Commission above mentioned has resolved to institute. It is hoped that the Commissioners will avail themselves of the assistance of ladies in the conduct of this portion of their business.

A resolution was passed at the Edinburgh Meeting, in the Department of Economy,* affirming the desirableness of Government security being afforded to the industrial classes who desire to provide an annuity in old age, or an allowance in sickness. In the ensuing session of Parliament a Bill was introduced by Mr. Gladstone as Chancellor of the Exchequer, entitled the Government Annuities Bill, which appeared to the Council to carry out to a considerable degree the objects aimed at in the above resolution; and they accordingly ordered the subjoined petition† to be presented to the House of Com-

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into the whole condition and management of these institutions; and while distinctly disclaiming any recommendation of interference with private schools, they suggest that the investigations of a Commission, if properly conducted, would probably lead to the communication of voluntary information which would throw much valuable light on the condition of Middle-Class Education, and the best means of improving the same. For these reasons the Council venture to urge on your Lordship the favourable consideration of their request that a Royal Commission be issued forthwith for the purposes they have above indicated.

BROUGHAM, *President.*
G. W. HASTINGS, *General Secretary.*

* See *Transactions*, 1863, p. 766.

(*Presented by Mr. Gladstone.*)

† The humble Petition of the Council of the National Association for the Promotion of Social Science,

Sheweth,

That your Petitioners have carefully considered a Bill now before your

mons in favour of the measure, which subsequently passed into law.

A Bill for the Amendment of the Penal Servitude Acts was introduced by Sir George Grey, in February, 1864, and a resolution was adopted by the Council, on the 15th of April following, approving of that part of the measure which raised the minimum term of penal servitude, but urging the necessity for establishing intermediate prisons, and an organised and responsible supervision over discharged convicts during the unexpired portion of their sentences. As regards the latter point, the Bill finally passed in the desired form, and the Association has had the satisfaction of seeing the views

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honourable House entitled "A Bill to amend the Law relating to the Purchase of Government Annuities through the Medium of Savings Banks," which purports to provide for the labouring classes the means of purchasing deferred annuities on Government security, and also to enable insurances on life to be effected for sums not exceeding £100 on the same security.

Your Petitioners are aware that various societies have been established throughout the kingdom for the purpose of facilitating investments of a similar character on the securities of such societies. They believe that such societies have in many instances been unsuccessful in the management of their business; and that this failure has frequently arisen from erroneous calculations of the value of life; from expenses of administration beyond the pecuniary ability of the societies; from mismanagement, especially as to the nature of their investments; and occasionally from fraud.

That your Petitioners further believe that, in the present condition of education among the labouring classes, they are unable to accurately judge of the soundness or unsoundness of such societies, and hence they are often led to make investments, or to pay contributions for a long period, which are subsequently found to be valueless.

Your Petitioners believe that the failures of which they have spoken have caused widespread disappointment and misfortune among the working classes, and have tended to check the development of the provident habits which must form the only secure basis for the independence and prosperity of the people.

Your Petitioners would further point out that in the present state of insurance business the labouring classes are in a great measure precluded from effecting life insurances for so small a sum as £100, inasmuch as the majority of offices decline to entertain such risks.

Your Petitioners are entirely convinced that great benefits would result to the whole labouring population if such facilities as are contemplated by the said Bill were afforded for enabling small deferred annuities and life insurances to be effected under Government security and regulations; and further, that any difficulty which may formerly have existed through the want of agencies to conduct such business, is now almost wholly overcome by the creation of the Post Office Money Order and Savings Banks Offices, now numbering several thousands in the kingdom.

That for these and other reasons your Petitioners pray your honourable House to pass the said Bill into law, with such modifications and amendments as to your honourable House shall seem fit.

Signed on behalf of the Council,
GEORGE W. HASTINGS, Honorary Secretary.

respecting convict discipline, which have been so often enunciated at our Meetings, substantially accepted by Parliament, and adopted by the Home Office.*

During the present Session the Council have given a strenuous support to the Bills introduced by the Attorney-General (Sir Roundell Palmer) for the concentration of all the superior courts of law and equity, with their offices, on the site between Carey Street and the Strand. For this purpose a statement of the desirableness of the object, and of the best means of effecting it, was prepared by order of the Council, and extensively circulated among Members of Parliament, and Town Councils, and other public bodies; a petition was presented to the House of Commons, and representations were made by a deputation to more than one of the leading members of the Upper House. The measure, it is believed, will at an early day be passed into law.†

The Council have also taken into consideration the resolutions passed by the Association at the York Meeting. They have approved—with some slight modifications—the opinions expressed by the Reformatory Section on the subject of prison discipline; and have appointed a separate committee for that Section, with a permanent secretary. In accordance with the report quoted above, they have nominated a small committee to prepare questions of International Law for discussion at the next Annual Meeting;‡ and have also appointed a standing committee on legislative business, whose duty it is to give information to the members on Bills introduced into Parliament, and to assist in the preparation of measures bearing on the objects of the Association.

Since the publication of the last volume of *Transactions*,

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* It may be observed that Sir George Grey has recently announced his approval of female refuges on the Irish system, and that more than one such institution is about to be established.

† *See Transactions*, 1862, pp. 136, 210.

‡ The Secretaries of the Committee are Mr. Kamensky, of London and St. Petersburg; Mr. P. H. Rathbone, of Liverpool; and Mr. Westlake, of Lincoln's Inn. The other members are Judge Marvin, of New York; Mr. Rahusen, of Amsterdam, and the General Secretary of the Association.

the Association has had to deplore the loss of several eminent and active members, among whom the Earl of Carlisle, K.G., and Mr. Gregson, M.P., are the most conspicuous. The former presided over the Reformatory Department at the Liverpool Meeting, and when the Association met at Dublin in 1861, his Lordship gave all the influence of his position as Lord Lieutenant to promote the success of the Congress. Mr. Gregson had been for some years one of the most active members of our Council, and on the occasion of the London Meeting was chairman of the Finance Committee, whose business he superintended with his characteristic punctuality and precision.

It only remains to add that the Ninth Annual Meeting of the Association will be held at Sheffield, commencing on the 4th of October next.

GEORGE W. HASTINGS.

Opening Address

BY THE

RIGHT HON. LORD BROUGHAM,

PRESIDENT OF THE ASSOCIATION.

THAT I should once more preside over our Congress after so often filling the office, is a matter of some regret, considering the many younger and abler members whose turn is thus deferred, and my own resolution had been taken to refuse the honour. But when it was represented to me that my old friends and constituents in this great county, strongly desired it, no choice was left but to submit. Of the honours and distinctions with which a long life has been blessed, the very highest must ever be reckoned my election to represent Yorkshire, the last time that it was fated to choose members for the whole undivided province; and there still live those my colleagues in office, who know how bitter was the pang of exchanging that proud position for the highest office in the State, how reluctantly the step was taken, how firm the determination of refusal, and to what urgent remonstrances submission was yielded.—And now in revisiting the scenes of former years, the pleasure naturally arising is sadly damped by the blanks, the dismal blanks, that meet the eye wheresoever it is cast around. Let me avoid this retrospect too painful to bear, by at once plunging into the affairs of the hour—

> "Offspring of woe, and parent of our ease,
> The toil which teaches pleasure's self to please
> Diverts the grief that spurns direct control,
> And stills the raging tempest of the soul."
>
> (*Dryden.*)

And now we are met on the very threshold of our eighth assemblage by the complaint oftentimes before repeated, that so little has been done since our last Congress. Need I again explain the grounds of this impatience, and the gross fallacy which it involves? To say nothing of the necessity that all improvements to be safe must be gradual, experience being

the great teacher, but also the corrector of errors and oversights, we greatly underrate the progress actually made, not only from our impatience that the movement is not more rapid, but from our fancy ever dwelling on that more rapid rate, as they who move along the side of the river wholly miscalculate the swiftness with which they see the vessel borne down the stream, nay, sometimes believe it stationary or borne backwards. If Lord Bacon said that proposal has wings but execution leaden feet, you were told last year that the people who hasten to improve their lot faster than the safety of society allows, are as sure of coming to a bad end as he who makes haste to be rich; that anarchy and slavery await the people, as the gibbet awaits the man.

In casting the eye over the last year, we are naturally struck with one great improvement—the voice of party has been for the most part still. The circumstance of the most considerable of leading statesmen having belonged to different parties at various periods of their course, has no doubt contributed to this: but it has more especially been owing to the increased and happily increasing influence of public opinion, from the diffusion of knowledge, and the habit of discussing freely all important questions, personal as well as general. Men are still combined in parties, and if their bond of union is community of principle, it is for the advantage of the State. But the benefits of party union may be obtained by a temporary combination of those who are agreed in anxiously desiring to further the attainment of a common object, without those evils which arise from the banding of men and families in factions. The influence of public opinion prevents those evils which in former times resulted from party, rendering it no longer possible that a few leading men or families should govern the State, disposing of its interests and patronage as they might those of a corporation or a borough. The times are gone and never to return, when in forming a ministry, able and honourable men could exclude the most rising man of the day, inheriting the fame of Lord Chatham, and himself already distinguished for first-rate parliamentary powers, to make way for a noble family's younger son, wholly undistinguished for any acquirement or capacity; an exclusion which had the most disastrous consequences to the interests of the country for a quarter of a century, the most critical period of its history.

It is a satisfactory indication of the stillness of party that we have to recount a most important measure lately adopted at the instance of our Council. The state of education for the middle classes has long been complained of, and petitions to both Houses had more than once been presented upon the

subject, a great number, more than 120, by myself to the Lords, and with those to the Commons, signed by above 40,000 persons. This last session there were others from districts in London, and in various places of nine several counties, from many classes of the promoters of education, among others from teachers of schools.* The general complaint was that while due care is bestowed upon the schools for the highest and the humblest classes, none whatever is given to the schools for the middle class. The working class numbers between fifteen and sixteen millions, the upper class between three and four millions, the middle class may be reckoned at below a million, but though small in point of numbers, their importance to the community it would be difficult to over-estimate. Yet no provision whatever is made to superintend the teachers of the schools frequented by their children, while the vast importance of the education they receive is undeniable. Care is taken that no unfit persons shall practise medicine or surgery; provision is made for the education of lawyers; is it less important to see that fit persons shall be entrusted with the mental and moral health of the community than its bodily health or its property? Yet the persons least qualified by learning or talents, and even of the most exceptionable character and habits, may set up schools for either sex, so that it has become a saying, when any one has failed in all other ways to procure a livelihood, let him keep a school, or let her be a schoolmistress. No one has ever recommended that any compulsion should be employed, any person be prevented from opening a school, or any school already set up be interfered with. But if inspectors be provided, with power to grant certificates of qualification and of character, almost all schools would submit to the inspection for the sake of the certificate, and few if any persons would set up schools without having passed examination. An answer would thus be afforded to those who complained, as some farmers lately did, that though they paid little for the schooling of their children, what they got for their money was not worth it. The Council, taking this important subject into their consideration, appointed a deputation upon it to wait on the Minister. It was attended by our leading members, as Mr. Chadwick, to whom we owe the greatest improvement in education effected of late years by the half-time system (as great a saving in point to money of the working classes as in health, physical and moral, to the pupils); Lord Lyttelton,

* These were transmitted by the London Education Society through Mr. Bentley.

who had rendered such important service on the Commission to inquire into our public schools; and the Bishop of London, whose ancient connexion with Rugby school gave him peculiar weight on all such questions. The deputation discussed the subject in the Minister's presence, and it has since been announced in Parliament that a Commission shall forthwith be issued on the whole subject of middle class education in compliance with the recommendation of the Council.

An important discussion took place in April on the admission of girls to the University Local Examinations. It was unanimously agreed that this is most desirable, and the Ladies' Committee formed for promoting this object are very desirous that it should be included among those matters referred to the Commission for inquiry. There can be no doubt that it will. The memorial presented to the University authorities has been signed by above 900 teachers, and there can be little doubt of its favourable reception. Nothing could be more incorrect than the representations made in some quarters that the discussion just alluded to was for obtaining degrees for female pupils. Such a notion never was for a moment entertained by any of those who attended the meeting. Indeed it was excluded by the known fact that no degrees are ever given at the local examinations by the Universities; and the only object of Mr. Hastings and those who supported him, was to have these examinations opened to females. The importance of this to persons who desire to follow the line of governesses and school-mistresses, is manifest; and it was stated at the meeting, on the authority of our worthy colleague, Mr. Hawes, chairman of the Society of Arts, that women of a humbler class who, having passed the examination of that society, have obtained first-class certificates, had been able at once to obtain situations as housekeepers in large establishments, instead of having to work their way up through different degrees of domestic service. At a time when great exertions are making by public-spirited persons, ladies especially, to give increased facilities of female employment, surely this discussion in the Association has been most opportune. But we have always been zealous in our efforts to encourage women of a higher class in their endeavours to better their condition by cultivating letters; and here at York we are naturally reminded of one intimately connected with the county where she was born (the daughter of a highly respected clergyman), and esteemed by distinguished families—the Stricklands, Swanns, Ramsdens, Headlams,—Miss Eyre, whose works, *Queen's Pardon* and *Family History*, have been well received, and as will be in a few days found in the pages of Mr. Cassell's *Quiver*, another is about to appear,

all the authorities of the Post Office were against him. The great Duke of Wellington almost alone perceived the merits of Sir R. Hill's plans, when others, Sir Robert Peel included, either opposed or coldly supported him. That he is destined to effect further improvements there can be little doubt, and we can only wish him the full restoration of his health that such improvements may be brought forward.*

The subject of the patent laws is sure to come under discussion in our Jurisprudence Department, with the report of the Commission upon it, under our colleagues Lord Stanley and Lord Overstone. Though the Government have ably and successfully given encouragement to the fine arts, in their application to manufactures, they have shown little favour to discoveries in science and their application to the useful arts. Since last Congress our most distinguished colleague Sir D. Brewster's grand improvement of light-houses, the result of his optical discoveries, has failed to obtain due protection from the Board of Trade. It is to be hoped that it may not share the fate of Sir W. S. Harris's lightning rod, which has saved life and property to a great amount, but was resisted for fifteen years by the Admiralty and the Treasury.

To the stillness of party already mentioned, may possibly be referred those opinions which have of late been ventilated upon the important subjects of foreign or international and of colonial policy—opinions which, though in some points sound, and in all respects well deserving attention, are yet in material particulars unfounded and require to be guarded against. It has been said not only that great care should be taken never to engage in the disputes of Continental States, but that the rule should be laid down of absolute and entire isolation, and that we have no more reason ever to mix ourselves in those disputes than if we belonged to another world. That the greatest mischief has resulted from a rash and needless interference to preserve the balance of power is undeniable. But that no violent usurpation, no seizure of one power's dominions by another, no extinction of one State and its absorption in another, can justify our interposition, it is impossible to maintain, unless we are prepared to see such an augmentation of some one State's force, as shall reduce all others to subservience under it, while a timely help given to a weak State, and alliances formed with others may serve to secure us against the dangers that might arise from the grasping propensities of conquerors unopposed. The love of maintaining national independence, and the natural

* Mr. Lewine's work, *Royal Mails*, is most interesting, and contains full and curious information on the Post Office, and its history.

pillage of the gallant Danes would have been shameful. She must feel the indignation which all Europe felt, and had she not given vent to the feeling she was disgraced. The indignation felt and expressed was against the rulers of Prussia, not certainly against the people, who have almost as much reason to complain of those rulers as the Danes themselves. That England should have been unable to interfere for their protection and for punishing the wrong doer, was a misfortune, not a fault. The outcry that she was humbled is as groundless as it would be to say that any one who saw a murder committed by a gang of armed ruffians was humbled if he did not stay their hands. No doubt our government would have been much to blame had it either encouraged the Danes to resist by the promise of help which it knew could not be given, or withheld its testimony to their valour, and to the injustice they had suffered. But no such blame was ever incurred. The expression of national sentiment was distinct and strong; promise of help there was none given. The only expression that could be so construed, was the declaration that Denmark would not stand alone; a declaration coupled with the statement that Russia and France viewed the aggression of Germany in the same light with ourselves. The declaration was thus the mere statement of a fact, and no one could for an instant imagine that we should single-handed rush into war with two-thirds of Europe. There have certainly been times when England would have made great efforts to induce those who thought with her to act with her in resisting wrong, would, by subsidies or by offering to join in warfare, have engaged in offensive alliances. But at no time would she have made war alone and unsupported; and the only difference between our present position and that of former periods, is the greater determination to avoid the evils of war, and to calculate the risks of being involved in it. It is, however, another matter to regard the abstinence of our neighbours from a timely interposition. France owes much to the wisdom of her present Government, and its determination against whatever may interrupt her rapid progress in the arts of peace. But there seems little reason to doubt that her interference at the early part of the late proceedings would have been effectual to prevent the acts of violence which are universally condemned, and effectual without the least risk of hostilities.

The measures which this country has taken for obtaining the concurrence of foreign powers in the great act of abolishing the slave trade, form no exception to the general principle, as beside the paramount claims of humanity and justice, we had a not very remote interest in the concurrence of other states;

have been easier than to frame the law for carrying the treaty into effect, so as to free it from this objection.

Mention has been made of the views now entertained upon colonial policy. Men, alarmed at the expense of colonies, and especially at the cost of their defence, and assuming that their commerce would remain secured in all circumstances, have broached the opinion that we ought to get rid of all such establishments as only a burthen, and rely upon a continuance of their trade, and of the beneficial intercourse subsisting through colonial proprietors residing in the mother country. It is unnecessary here to point out the errors of these opinions. But one principle may be laid down without any hesitation; that, as all colonies have a tendency by their growth to reach a state in which they may assert their independence, we ought so to regulate our intercourse with them as to maintain a friendly feeling on both sides, and make the amicable intercourse lasting in the event of a separation. The excessive national vanity of the Americans, breaking out in jealousy and hostile feeling towards this country, may seem to make continued amity hardly possible after independence has been established; but it is to be hoped that sentiments so unamiable, and so utterly groundless, may die out if they should not be cured by reflection.

There are few subjects more interesting to the promoters of Social Science than the course of legislation upon rights of private property, what are called Private Bills in Parliament. The great, the transcendental powers bestowed by these Bills require that their discussion and enactment should be guarded with the utmost care. This becomes the more necessary that the parties to a Bill—those who promote and those who oppose—may, by collusion, obtain powers affecting third parties not represented, and especially the public. There are instances without number of provisions inserted setting at defiance all established principles of the law, and only discovered when some party sought to take advantage of them. But the amount of private business is a serious grievance to the members of both Houses, especially of the Commons, and the expense to parties is enormous; beside that the inquiries before committees are not the best calculated to attain the end of all such quasi-judicial investigation—the ascertainment of truth. A very important committee has lately examined the subject, and on the reports presented by its chairman, Colonel Wilson Patten, certain improvements have been adopted, which it is hoped on trial may prove beneficial. But to the great evil of all, both in delay and in expense, no remedy has been applied—the double inquiry rendered necessary by each House having

to go through the whole provisions of each Bill. Now, it is manifest that this could easily and safely be avoided, and the whole inquiry be improved, without the least infraction of the privileges of Parliament. With the aid and the powerful support of the great man whose irreparable loss we daily and hourly deplore, whether in peace or in war, on all subjects of policy, foreign and domestic—the Duke of Wellington—I brought forward the plan, which we had worked out in concert thirty years ago; and in the Committee of 1844 on the Standing Orders, when I proposed those which were afterwards unanimously adopted, which are the orders now in force, and were soon after reluctantly adopted by the Commons, he said it would be better to propose our great plan, and on my assuring him that it would be rejected, he said, we can but fail, and then we retreat upon your lesser plan. My fears proved well founded; we were defeated chiefly by the influence of professional men with the members of our committee. The plan was for the appointment of a joint committee of the two Houses, seven Commoners and five Lords sitting, with the assistance of a professional judge to rule, or at least to advise them, in matters of law; the Committee to examine the whole case and report upon it to both Houses, the report to be conclusive upon all the facts, but all else to be in the discretion of each House.

The last Session was productive of an important measure, propounded by that steady friend of the working classes, whose zeal for their benefit and their improvement is hardly surpassed by his unrivalled eloquence so often employed in diffusing useful truths, as well as in supporting wise schemes of policy. The great commercial treaty with France, his work and that of the able and enlightened French Minister of Finance, might be justly commemorated. But here at York, where the gratitude of the working classes has been expressed to him in so remarkable a manner, it is fitter to dwell upon the important benefit extended to those classes by their access to Government annuities, free from all risk, and without the hazards to which life societies are subject. In our last Congress, at Edinburgh, a resolution was passed recommending to the Council to obtain a Parliamentary inquiry into the condition of provident societies for the working classes, and the propriety of Government security being afforded to them for annuities in old age or sickness. The Council referred the subject to a committee, and in the meanwhile, Mr. Gladstone, by his Bill, anticipated the resolution of the committee. The Council presented a petition strongly urging the reasons in favour of the Bill, which, after considerable opposition from insurance and annuity companies, was finally passed.

An attempt was made in the Lords to carry a Bill for shortening the period of limitation in simple contract debts, and for extending equitable jurisdiction to the County Courts, and in so far the measure would have been most beneficial. But it was coupled with a provision abolishing the power of arrest for small debts, and as this would have at once extinguished those most useful courts, and abolished all local jurisdiction, the Bill was strenuously opposed, and could not have passed either House. These courts have been of inestimable service. The causes before them have increased, so as now to be in their number, and the amount of the sums sued for, in the proportion of three to two, comparing the years 1863 and 1855, and double the number and amount at the establishment of the local judicature seven years before. In 1863, the number of plaints was above 800,000, and the sums sued for nearly £2,000,000. The increase has been regular, and the judgments have given such satisfaction that from the 260,000 last year in contested suits there were no more than fifteen appeals. There were above 170,000 judgments by consent, only 30,000 executions, and between 8,000 and 9,000 imprisonments, so that of 800,000 suits, in all but about 7 per cent. the matter was settled by payment or compromise. In the Supreme Courts, the same year, the number of causes was 100,000 and the necessity of execution and imprisonment for want of settlement was not in 7 but 23 per cent. It was unfortunate that the excellent provisions in the Bill were lost with the rest, but it is to be hoped they are only postponed; it was too late in the Session to present another Bill.

The continued withholding of a department for judicial affairs, after repeated promises in answer to motions of our distinguished colleague (Mr. Napier), the ex-Chancellor of Ireland, is greatly to be lamented, on account of the County Courts' Bill, as well as others. Had such a department existed, the Bill, reduced to its fit dimensions, must have passed, as well as those further amendments in the law of evidence and of judicial procedure which late experience has shown to be desirable, and which it is to be hoped will engage the attention of our Department of Jurisprudence. The exertions of our colleague, Lord Clanricarde, have at length succeeded in extending to Ireland the system of judicial statistics. He expects the return for the year to show a great diminution in the real amount of litigation before the Superior Courts, notwithstanding all attempts to increase its nominal amount; for he justly observes that in so agricultural a country the Sessions are to the bulk of the people the most important tribunal.

An inquiry in the Commons upon the health of towns as

affected by sewage has led to a report of great importance, and the subject will be taken up in our Sanitary Department. It appears clearly that the process for cleansing towns has led to the greatest impurity in streams, and the report shows incontestibly that all sewage may be conveyed into the country at a moderate cost, and even with a profit, by the farmers who purchase the manure. At a time when the supply of guano is found less than the demand for it, nothing can be more valuable to agriculture than the process recommended by the report as so beneficial to the health of towns. There can be little doubt that the conclusion in the report will be strongly recommended by our Department, with the support of the evidence brought before it.

As the promoters of Social Science travel more than others, we have an interest in the subject frequently broached in both Houses during the Session,—the security of railway passengers. Considering the extraordinary powers given to the companies, the legislature has a good right to require that, in return, they should adopt whatever may tend to the safety of the traveller; and there can be no doubt that the easy communication of each compartment with the guard can be effected at a moderate expense.

No subject has more engaged the attention of our Association in all its branches than the treatment of convicts. At our first Congress, in 1857, papers were read on the Irish system; and it formed next year the main topic of the very able and interesting address by Lord Carlisle, Lord Lieutenant of Ireland, as presiding over one of the Departments. We have at this meeting deeply to lament his absence, from ill health, which every friend of the country must hope may have a short continuance. At the Dublin Congress most of our members had an opportunity of fully inspecting Sir W. Crofton's proceedings, and all formed a decided opinion in his favour. Last year, some alarm was excited by the opposition in high quarters, (countenanced by the Home Office) to its introduction into this country; but this was allayed by the reports of a Royal Commission, and of a Committee of the House of Lords; and, though similar attempts were afterwards made in the same quarters, there is happily an end of all doubt upon the matter by the Penal Servitude Act of last Session, which places the principle so strenuously maintained by us beyond the reach of further disturbance. The opposition of the Home Office is abandoned; the Act enforces the most important of the recommendations in the report of the Commission and of Lord Carnarvon's Committee, and that office has shown a praiseworthy disposition to give up its former prejudices and fairly and

firmly to execute the Act, in the regulations issued under its provisions. The controversy of years thus comes to an end, and convict treatment is brought into agreement with the intentions of the legislature in 1853, or, in other words, the Irish system. On this we may congratulate our worthy colleague, the Recorder of Birmingham (Mr. Hill), who first among us broached this subject in 1857, having made himself acquainted with the system upon the spot. Unfortunately he is not here; but he has sent an able and most instructive paper, which will be read in the Jurisprudence Department, and of which advantage is now taken in this Address.

The treatment of convicts, with constant purpose of reforming them, deviating neither into indulgence on the one hand nor unnecessary harshness on the other, their supervision after their release, both to protect the community against the danger of their relapse, and themselves against unjust suspicion and consequent persecution, and to afford them some aid in obtaining employment under the all but overwhelming disadvantages with which they return to society; these, to use Mr. Hill's words, are the principles now accepted, the principles of the Irish system. Its success is proved by the experience of eleven years. It has been approved by the most eminent jurists on the Continent, and condemned by none. At their head must be placed our learned colleague, Professor Holtzendorff, of Berlin, who joined us in the examination of Sir Walter Crofton's premises, at the Dublin Congress. Next, we have the approval of Professor Mittermaier, of Heidelberg; M. Davisies de Pontes has described it in the *Revue des deux Mondes;* and Van da Bruggen, late Minister of Justice in Holland, adopts it. M. Massorgy, a French judge, who has long studied the subject, pronounces strongly in Sir Walter Crofton's favour; and M. Cavour had begun to act upon the Irish system just before his lamented death. Professor Mittermaier's valuable treatise on Capital Punishment, translated, with valuable additions, by an English lawyer, Mr. Macrae Moir, is about to appear, but may be too late for this Congress. On the subject of capital punishment, discussion is certain in our Jurisprudence Department, and a respectable society under Mr. Gurney has been occupied in circulating information, part of which has reached us. No doubt the question of total abolition is attended with difficulty; but on one point there can be no difference of opinion, the necessity of an execution of capital sentences without suspicion that individual caprice or popular interference exercises any influence, and such suspicion is sure to exist as long as there are no judicial assessors to the Home Office in determining questions

the multiplication of such establishments, of which steps have been taken to form eighteen or twenty in London, and it is devoutly to be hoped that the like steps may be taken in the provinces.

The importance has more than once been considered at our Congress, of introducing into this country the decimal and metrical system now so universally prevailing on the Continent; and its importance is regarded not merely with a view to the facility of accounts in our extended commercial dealings with foreign countries, but also with regard to its advantages in education. It appears by Mr. Chadwick's statement, from his communication with numberless teachers in various parts of the country, that the result is to obtain a saving equal to between a third and a half of the time taken to teach pupils arithmetic. As this is reckoned three-quarters of an hour daily, the benefit of the saving to the working classes is manifest, even on the half-time system, now it is to be hoped generally adopted. The Weights and Measures Bill, moved by our colleague, Lord Fortescue, though opposed in the Lords, was carried by a very considerable majority, and the Act is passed. It is only permissive, and confined in its extent; but it is a step in the right direction, and will inevitably be made general, and be universally adopted.

But with all the care taken for the working classes, for promoting their comfort and furthering their improvement, shall nothing be done, even when we find them improved, to increase their weight in the community, by extending their influence on public affairs—in a word, by lowering the elective franchise, and admitting a larger number to concur in the choice of our representatives? Everyone must remark how constant the occurrence is of the poll having a very different result from the show of hands. Can nothing be done to bring them nearer together? Is it impossible so to arrange that the person returned by the show of hands should sit, unless the poll exceeded by a certain proportion the first return? This would give the voters a very decided preponderence, but without denying the existence of the more numerous class.

But, whatever difference of opinion may prevail upon the extension of the franchise, there can be none upon the evil effects of corruption and the absolute necessity of freeing the community from that which is injurious to its most important interests, above all to its morals. The desire to have a seat in Parliament is such that all risk of cost is willingly encountered, and the punishment of fine or imprisonment without hard labour is not sufficient to deter the candidate or his agents who yet would not expose themselves to the risk of the tread-

mill. The slave trade flourished under the pecuniary penalties of fine and forfeitures, but when it was made felony the crime entirely ceased. Men would run the risk of losing ship and cargo because the profits of a successful voyage made them whole after a forfeiture; but the risk of transportation they would not run, and the crime ceased at once and for ever to disgrace the country. So would bribery at elections were the treadmill the punishment, and a public prosecutor appointed, as has become necessary on every account, unless we desire to see our criminal law continue to be most imperfectly administered. The Bill for awarding this punishment was introduced into the House of Lords so late in the Session, that when Sir Fitzroy Kelly took it up in the House of Commons with the important addition of requiring a declaration to be made by every member, on taking his seat, that he believed no illegal expenses had been incurred by him or his agents (a provision which could not well be introduced in the Lords) it was found impossible to pass the Bill before the prorogation. The prospect of immediate dissolution being no longer in view, the postponement of the measure till next Session was less to be regretted. The effect of the declaration proposed by our distinguished colleague Sir John Pakington would be very great; for as the Lord Chief Justice Cockburn observed when he intended himself to move such a provision, no man of the least regard for his character could make it when he knew what sums he had expended himself, or by his agents, in corruption. If the Commons really wish to prevent bribery, as we are bound to believe they do, notwithstanding all rumours to the contrary, they will take care to pass a Bill with this provision. It is satisfactory to find, as the Lords' Committee did upon municipal elections, that the persons guilty of corruption at these as well as Parliamentary elections, are generally speaking of the most ignorant classes, those who never read at all.

But whatever may lately have been done by the legislature, or left undone, for the working classes, it is clear that they possess the power of doing much for themselves, and that happily they are resolved on providing for their own advancement in all respects, for bettering their condition, and for acquiring the time and the means for their moral improvement. This is by the co-operative plan, now so universally adopted, and which since our last Congress has made such steady progress. The yearly report of that excellent and most able officer, Mr. Tidd Pratt, has been made and is most cheering. It shows that there are in England and Wales 454 co-operative societies, and though of these 72 have made no returns, either from neglect, or from having been too recently established;

of the other 381 the number of members is 108,588, of whom 22,732 were admitted in 1863, only 11,358 having been withdrawn. The amount paid for goods was £2,370,153, the sums received for goods £2,626,741, leaving a profit of £213,623. The whole expenses for wages, rent, repairs, &c., was £176,544. The account that we have received since Mr. Tidd Pratt's report (which comes down to December 1863) shows a very considerable increase during the present year, in numbers, capital, and transactions. The profits are divided in proportion to the shares held by each member; and it is most satisfactory to find that the sums withdrawn were far less in 1863 than in 1862, the relief from distress, which caused the withdrawing of these sums, having been much less considerable in consequence of the improvement of trade. The principle in almost all cases is "No trust, no debt,"—and the only exceptions are when, from sickness or other infirmity, individuals are assisted by others, and repay the small sums thus advanced. The whole management of these concerns is in the hands of the workmen themselves, and the gains are for the most part accumulated so as to form a small capital, which is generally employed in the productive branches of co-operation. But the great bulk of these societies are the stores, for the purchase and sale of the goods consumed by the members. The profits are thus earned in proportion to consumption, and a most pleasing part of their appropriation in very many instances is the provision made for education, by the purchase of books and journals, and the support of reading-rooms.

But a most important step has been lately taken, which in its consequences promotes co-operation in a degree almost incalculable—the establishment of wholesale stores, the purchase and sale by general agency. For this great improvement we are indebted to Mr. Greenwood, of Rochdale, who having observed the failure of former attempts to establish such an agency, devised the plan, which, after being submitted to a conference, held in March 1863, of delegates from almost all the societies in Lancashire and Yorkshire, was adopted by their unanimous concurrence, and is now in active operation. An office is established in Manchester, and the whole expense, including the purchase and sale of the goods, is defrayed by a small contribution from the members of the societies in connection with the office. All the goods required by the societies are bought of the great dealers, and sent by them at the cost of the receivers. The goods are thus of the best quality and at the lowest prices. The societies are, of course, required to confine their purchases to the central agency, which, buying perhaps for 150 stores, can afford to charge a very small commission from each. Mr.

Greenwood's estimate was grounded on the actual consumption of 3,500 persons of the Rochdale Pioneers, and this made the amount consumed by 40,000 persons equal to £524,000 a quarter of groceries. He reckons on 2*s.* 6*d.* for each member in these counties, which would yield £5,000, a sum amply sufficient for all the expenses of the central establishment and agency.

Great as the step has been there is besides a remarkable increase in the number of co-operative societies and of their members. Instead of 332 societies with 90,000 members in 1862, we have now for 1863, 454, with 108,000 members, and the sums paid for goods have risen from £2,300,000, with a profit of £145,000, to £2,600,000, with £213,000 profit by the comparison of the last two years. But since December, when Mr. Tidd Pratt's accounts were made up, we have received returns for August, which show that the increase has gone on this year more quickly. It is impossible to doubt that much is due to the unremitting and powerful exertions of Mr. Pitman, and to the journal so ably conducted by him—*The Co-operator.* But he has been indefatigable in his labours, having gone round the country to deliver lectures upon what may truly be called self-help to working men; teaching them the uses of co-operation, and having ever in view the paramount duty of exciting men to work out their own improvement by helping themselves. It is to be hoped that we shall have the great benefit of his presence at this Congress, and among various subjects to be discussed in our Economical Department there is one which his experience and his intimate acquaintance with the working classes renders him peculiarly fit to handle, the proper distribution of profits in concerns of productive industry. Some have contended that the distribution should follow no rule but the apportionment to each person according to his wages; others that it should depend entirely upon the capital employed; while between these two extremes it may be hoped that a middle course might be found, so as to give a share both to the labour of the workman and the capital by which it is put in motion. The extension of co-operation to farm labour has been continued since last year, as we shall find from Mr. Gurdon's statement.

The incalculable benefits of co-operation to the comfort and independence of the working classes are even surpassed by the advantage which the community derives from the reconcilement to each other of the different bodies that compose it. There no longer prevail the feuds which most of us remember to have set against each other—the master and the workman, the middle and the humbler classes. We shall soon outlive all

strikes of men and combinations of their employers in self-defence; and the time will never more return which brought a special assize to this great county for the trial of outrages not only upon property but life; and though doubtless the progress of the people in education and moral improvement has been evinced in this happy change, that improvement has mainly served to bring them into mutual amity by the great progress of co-operative industry. To this is the whole happiness as well as improvement of the people due.

> "Reason's whole pleasure, all the joys of sense,
> Lie in three words—health, peace, and competence,
> But health consists in temperance alone,
> And peace, oh virtue, peace is all thine own."—(*Pope.*)

But if from surveying the progress of Social Science at home we turn our eye to foreign countries, the view is by no means so gratifying. There has not been that advance in constitutional systems which we were happy to commemorate at our last Congress, and in some States the changes have been for the worse. There appears a determination in the two great powers of Germany to resist all constitutional improvements as tending to revolution, and in their own dominions everything is withheld from the people which it is safe to withhold. In the smaller principalities the love of foreign war has superseded all internal reform.

The Kingdom of Italy is making very useful changes in its administrative system, adopting an improved taxation, and establishing such an effectual police as may relieve its southern provinces from the banditti, whom the exiled family, protected by the Roman Pontiff, continues to encourage and support. It is certain that as long as France maintains an army at Rome, the tranquillity of Naples may be secured by orders from Paris.

The sufferings of Poland under Russian oppression have been already adverted to, and reprehensible as the Imperial proceedings have been, we are bound to admit as an exception the Emperor's conduct towards the working classes in his own country. He has firmly and successfully persisted in the great measure of serf emancipation, and his merit has been the more remarkable because he had to contend with the universal opposition of the landowners.

In France some important changes have been wrought in the law, and in the constitution of the provincial councils. It is proposed to restrict the imprisonment of debtors to cases where there has been fraud or gross extravagance and carelessness; and a code of bankrupt laws is preparing, somewhat on the model of our own, the great errors of

which, committed recently, it is to be hoped will be avoided. There have been material improvements in the department of public instruction, the most useful of which is the giving prizes to any persons who have left school and been employed in labour, but retain the knowledge they had acquired, it being a common charge against poor schools that the pupils soon forgot all they had learned. A very useful association has for two years been established for international instruction by the exertions of M. E. Rendu, the good effects of which are to be seen in the school of St. Germain-en-Laye. But no extension has been given to popular interest in any way whatever; and there have been prosecutions, that more especially of our distinguished colleague, M. Garnier Pages, and his friends, the judgment in which, if upon appeal found to be sanctioned by law, shows the absolute necessity of that law being repealed, unless the marvellous discovery of a courtly duke be considered as founded on fact, that the French are incapable of more liberty than they at present enjoy, granted them by the Imperial Government.

It is pleasing to observe the late elections and their consequences in a very small country having the inestimable benefit of a free constitution, as well as most wise and able rulers, the Belgian kingdom, where the greatest progress has also been made in all branches of industry. The elections have been in favour of the Liberal party, and have frustrated all the attempts of the bigoted adherents of Rome, yet without the least scope being given to intolerance, as is shown at the Catholic Congress of Malines, attended by men of the most distinguished station, and addressed in some of their speeches upon subjects which no one would have ventured to approach, at Berlin, Vienna, or Paris.

A most excellent practice has been introduced by our Foreign Office, of requiring the Secretaries of Legation at different courts to make a yearly report of the changes in commercial, and generally the economic, measures, during the year. The volume containing these reports for 1863 has appeared, and it contains a body of most important information. One head may be referred to as an example. The report of Mr. Layton upon Switzerland gives an account of a most admirable institution for the education of female servants, which had been attended with perfect success, and shows how that problem may be solved which the late Prince Consort was so anxious about, and which Mrs. Baines, it is to be hoped, will enable our Department of Economy to discuss with the advantage of her great experience and knowledge of the subject. That this country will ever be ready to benefit by the experience of other

nations, no one can doubt. We should be worse than spoilt children were we to justify the taunts occasionally thrown out by foreigners. We should be like those princes in despotic states, one of whom asked the bishop, his tutor, when reading the French history with him, and it was said that the king died in such a year. "What," said the prince, "do kings die then?" "Sometimes," was the bishop's courtly and cautious answer. The Americans indulge in the taunt at our expense; we are unable to retaliate; for their national vanity, amounting to disease, is coupled with so rational a regard to their interest that they are the first to adopt, and often to continue, the improvements of other countries.

And now what a scene of misery and crime does their recent history and present condition present to the friends of Social Science, more horrid than any case known in modern, let us say Christian times! and with this sad peculiarity, that the whole people, instead of merely permitting, as in other cases, the crimes of their rulers, are themselves the active and willing agents in the work of merciless slaughter—of such wholesale bloodshed as never before disgraced the name of man. *Quæ est ista tam infesta ira, quam per tot acies fusus sanguis explere non potuerit? Adde huc populationem agrorum; incendia villarum, ac ruinas omnia ferro ignique vastata, hiscene ira expleri non potuit?* (Liv. vii. 30). How the blame for these horrors should be distributed it boots not to inquire. Some good men have been deceived by the notion that slavery is the cause of the war—duped by the pretext that the North fights to free the slave, whereas their emancipation edict was a mere belligerent measure, an afterthought; they (as Bishop Wilberforce said) caring no more for the freedom of the black than they do for that of the white. But it has been reserved for the later act of the tragedy to see that Government, when destitute of other troops, drive herds of the unhappy negroes to slaughter, with no more remorse than sportsmen feel in clearing a preserve. Yet certain though it be that the North did not make war to free the slave, and that this could not have entered into their consideration when they began the contest for preventing the secession, it is no less certain that the maintenance of slavery—their detestable institution—was partly the object of the South in fighting for their independence; and the friend of humanity, although feeling that we are not entitled to require a more sudden emancipation than we ourselves effected in our colonies, may yet earnestly hope that out of this cruel contest and its countless evils, the mercy of an All-ruling Providence may draw the good, contemplated by neither party, of giving freedom to the slave.

earth, and even from beyond the grave, are utter disbelievers in all religion natural and revealed, unhappy persons in whom the works of the Creator which surround them fail to raise a thought of the Almighty power, wisdom, and goodness, and to whom the revealed will of God is addressed in vain. It becomes us to regard such opinions with pity, as far as they are sincere, abstaining from all expression of vituperation, difficult as it may be to avoid blaming those who, by propagating such delusions, would unsettle men's faith in one system without even affecting to put anything in its place. But we of the Association hold fast by our own opinions, handed down with the sanction of the names most venerated in all the walks of all the sciences, held indeed by the most respected and beloved, and deeply lamented of our own body. Death has since our last Congress visited us with irreparable losses, of which may well be noted that of our excellent Professor Pillans, one of the most able, learned, and pious of men; and Sir W. Brown, whose munificence, almost unexampled in modern times, bestowed upon the working classes in Liverpool their rich library, and the great structure for their meetings. The friend of all sects, bestowing his generosity alike to them without any distinction, though every one knew how firmly held were his own principles of religion as well as policy, though tempered by forbearance towards whoever differed with him on either. The loss of Lord Lyndhurst also befel us at the very close of our Edinburgh assemblage, and grievous it was both to his friends and the world. To say anything of his other merits would be superfluous, but we here may commemorate the obligations under which he laid the promoters of improvement in our jurisprudence. Beset on all sides by the adversaries to change in the law, by those with whom he concurred in views of general policy, by the alarmists of every class, and by the judges themselves, he resisted all attempts to turn him from the right path; and even when he had for a moment, under the pressure of party connection, opposed the first proposal of local courts, his opposition was marked by a candour suited to his great sagacity, and he soon after gave that important measure his powerful support. Certainly with any other Conservative Chancellor it never would have been carried; and the great change in the law of evidence, the examination of parties, opposed by the Liberal Chancellor, as well as the other judges, found in him a cordial supporter.

His irreparable loss leads us in connection with the topic now handled to reflect with satisfaction on the peace which he enjoyed in his latter days, and the lively interest he took in

religious study. The book which he read without intermission was the New Testament. It formed for many months the subject of his daily perusal; and he left in writing his important testimony to the comfort which he derived from the gospel truths. The last matter of a secular kind which occupied his attention was the Edinburgh Congress and its proceedings, the very day before he retired to that rest for which he often said he was anxious and prepared:—

> "Soul of the just! companion of the dead!
> Where is thy home, and whither art thou fled?
> Back to its heavenly source thy being goes,
> Swift as the comet wheels to where he rose;
> Faith lured thine eye to deathless hopes sublime,
> Beyond the realms of nature and of time."
>
> (*Thomas Campbell.*)

Address

BY

THE RIGHT HON. SIR JAMES P. WILDE,

JUDGE OF THE COURT OF PROBATE,

ON JURISPRUDENCE AND AMENDMENT OF THE LAW.

THE 7th of February, 1828, was a memorable day in the annals of Law Reform. Then it was that the greatest orator of his age delivered his celebrated oration in the House of Commons, and laid open the sweeping changes which our law required. From that moment an impulse was given which has not ceased to be felt. Interest was aroused, indignation excited for the errors of the past, and a basis laid on which to build fair hopes of the future. Since that time, the progress of Law Reform has been unceasing, though gradual.

And now, after thirty-six years, after the destruction of a host of anomalies, and the removal of barriers and obstructions, such as set justice at defiance, we find ourselves still engaged in the same work, and, singularly enough, under the guidance of the same hand. No one can rise from the perusal of that remarkable speech, and a contrast with the reforms actually since effected, without marvelling at the success with which the defects and weak points of our judicial system were hit upon and exposed. And it is not too much to say, that nine-tenths of the precise evils there indicated have been successfully met by the precise remedies there proposed. A glance at the subjects dealt with will serve to show us both the benefits that we have reaped, and the evils from which we have escaped. It will further serve to stimulate us to successful labour in the same field.

The monopolies of the serjeants and the attorneys of the Common Pleas, and of the latter in the Exchequer, tending as they did to exclude business from both these courts, and overwhelm the Court of Queen's Bench, were exposed. These monopolies have been abolished, and the business of the courts equalised.

The Welsh judicature was denounced, and has since been successfully abrogated.

The constitution of the privy council as a court was impugned, and has been reformed.

Passing from jurisdiction of courts to the defects in Crown law, the Crown has ceased in most cases to pay no costs when defeated, and justice has been made more attainable by the subject against the sovereign, by improvements in the petition of right.

To save the necessity of a second suit in another court, equitable pleas have been allowed at law.

Expense and delay in undefended actions, such as on bills of exchange, have been avoided by a prompt remedy, devised for the purpose.

Antiquated forms have been remodelled, or suppressed. Wager of law has been wholly abolished, whilst a new and short form has been given to fines and recoveries, trusts to preserve contingent remainders, and the action of ejectment.

Passing, then, to the conduct of a suit, the tyrannous pressure of arrest on mesne process, and the ruinous pitfalls of special pleading, no longer exist, while the way has been laid open to the manifestation of truth by various facilities. Power has been given to inspect documents, payment of money into court allowed, increased powers relative to arbitration conferred. Leave to proceed without appearance, large amendments on matter of form, admissibility of parties themselves, and interested persons, as witnesses, double speeches by counsel at the trial—these and other invaluable improvements all asked in that speech of 1828—have since, by one hand or another, been carried into effect, and command the approval of the entire profession.

But it has taken between twenty and thirty years to effect these improvements—a melancholy proof of the tenacity of established abuse, and the sluggishness of the current of change.

Great and useful have these labours been, but the object of this retrospect on the present occasion, is not wholly felicitation for the past, nor example for the future: for I wish to draw attention to the fact that the whole of these changes have been confined to the Procedure of the courts and the method of applying the law, not to the body of the law itself.

It is the double function of Procedure to precede and follow legal adjudication, first ascertaining the facts in dispute and then carrying into execution the decrees of the law upon them. It is, therefore, properly the machinery of the law; but it is nothing more. Now, in 1828, the avenues to justice

were so choked with artificial obstacles that approach was practically denied. Expense, delay, uncertainty—these three monster evils barred the access of the suitor, or terrified him into submission. The clearing of these obstacles, while it has opened the way to the speedy and certain administration of the law for the suitor, has brought the law reformer face to face with the body of the law itself.

The question, then, forces itself upon us: Is the law itself free from defects of a similar character to those which have disfigured its Procedure? Can we boast of a judicature, so logical, so free from entanglement and inconsistency, so clear and uniform, so harmonious and well-balanced, as to be worthy of our social progress, and equal to the mixed and multiplied wants of our age? Law means justice administered according to method. And in this, justice should be paramount, and method subordinate. Good laws will work occasional hardships, for they should be unbending; but if well administered, never injustice, for their principles should be unerring.

Every legal system must impose some forms upon the business transactions of life, but they should be as few as possible, lest from guides and supports, they pass into fetters and trammels.

The law should also be clear, because simple in principle though diffuse in details, and compact in form because well collated, though compendious in grasp.

How far can we conscientiously say that the common law of this country fulfils these ends? To what extent can it lay claim to simplicity, certainty, clearness, and unerring justice? Above all, what can we say of its compactness whose principles wander at large through the pages of 300 volumes, and the leaves of whose oracles lie as they first fell, scattered and unsewn? When we reflect on the history and growth of our laws we have no need to be surprised or ashamed. The marvel is that they contain so much worthy of admiration and homage. If they do not meet all our modern wants, to how many of them have they been gradually and insensibly adapted?

Is it to be wondered at if laws which sufficed in the time of the Plantagenets fall short in the present age? Bear in mind that the laws of this country have suffered no general revision from time immemorial. As the middle classes forced their way, as the wealth of land found itself emulated, if not surpassed, by the wealth of trade, as civilisation bore its universal fruit of complicated relations in life, the laws regulating these relations ought to have felt an equal progress. Provision should have been made by the legislature for new requirements, and the obsolete constantly thrust out.

In saying this, I am far from the suggestion or belief that this gradual progress of the law built up on old foundations, resting step by step on precedents reaching far back into remote antiquity, and thus bringing up to the surface the experience and wisdom of past generations, was altogether faulty in system, or void of invaluable features. It had, however, this capital defect, that the powers of the courts of law were constructive only: under the name of adaptation they could practically create; under no name could they destroy. But it was not enough to create, power was needed to abolish; it was not enough to build, unless timely clearance could be made of the ruins and rubbish of past structures. Here it is that the system has broken down. This defect it was that choked the accesses of justice with empty forms and worn-out expedients, and induced those vices of Procedure which the labours of the law reformers of the last thirty years have scarce sufficed to remove. And this it is which still affects the body of our laws themselves, binding our real property with the clogs and shackles of feudal rights, and tainting the laws of personalty with analogies largely drawn from the same extinct system.

Yes—the life, the body, and even the spirit of the Feudal system has passed away—but the armoury of its weapons and defences still hangs in our halls of justice. Let us examine our English system of law-making a little closer—and observe the inevitable process.

Did a new position arise, for which the jurist had no precedent, analogy was resorted to. If no near analogy was at hand, a more distant one was sought; if none found in the region of similar rights, a more remote one, taken from a different class or branch, was often brought forward; and bent, perhaps distorted, till it served the end.

It might, perhaps, have been better to deal with a new class of cases as avowedly demanding an application of law, for which there was no precedent. And this has been sometimes, though more rarely done. But it must be borne in mind that the courts at Westminster had, in strictness, no power to make the law, but only to declare it. They had no alternative, therefore, between declaring the voice of the law to be absolutely silent, and adapting its recorded oracles, such as they were, to the case in hand, as best they might. And thus the law has grown, professedly, indeed, drawing its decisions from its own inexhaustible stores, but in reality framing, adapting, creating, as it went along.

From this method, both evils and benefits have flowed of a sufficiently remarkable character.

It is no small benefit that, in a fresh application of legal principles to a new class of cases, there should be apparently mingled the element and the sanction of time. The decisions of the courts being avowedly nothing more than enunciations of the pre-existing law, though in reality new determinations framed upon old principles, carry with them the veneration of tradition, whilst they embody the spirit of the age.

It is another circumstance of value, that all changes effected are gradual, and while they do not anticipate yet keep pace with the necessities of the day.

Further, when any new subject engages the attention of the courts, it is the peculiar feature of this system that each step is taken separately, never exceeding the particular circumstances of the case or aiming at generalities.

Thus the law falls into shape as the subject becomes familiar; opportunity is given by the succession of each fresh example for contrast and reconsideration; the direction first taken is followed out, modified, or even reversed; limitations and qualifications make their appearance, and something like a general rule at length emerges, well suited to the actual exigencies from the experience of which it is drawn.

If this is legislation, it is legislation of the best kind, for it is framed by those who have no popular interests to support or collateral ends to attain, and who bring to the task carefully trained intellects, familiar with the subject in hand.

The evils of the system are, perhaps, equally apparent. Invested with a power larger than avowed, the tribunals may be said to have too much or too little confided to them. If they frame new applications of the law, they are obliged to do so on old models only, and administer them under old forms. Tied down by the past, they are too little set at large to work out entire justice. Working in the trammels of tradition, they are driven to the resort of legal fictions. Founding all decision on precedent, they are circumscribed and limited by the analogies on which their decisions are based. The broad rule of right is but too apt to suffer in such circumstances, and full justice must needs be at times shorn down to obtain a footing on precedent.

But the worst feature attending a law purely traditional is its incapacity to obliterate. Tradition is the expression of permanence; and if it perpetuates truth, it also embalms error. It renders what is really obsolete unquestioned because it is familiar, and fences it from attack by giving it the immunity of age. Thus it is that many of the positions of our law pass without inquiry, though their justice might well be challenged.

Now let us compare this system of law-making with the more comprehensive system of a code adopted in most other countries.

The attractions of the code are obvious, and its faults not so apparent. The object of both is alike to form a permanent frame for the action of justice. The chief point of contrast lies here—the framers of a code propound their principles in accord with justice, and casting about in their minds to imagine the possible cases falling within them, adjust them accordingly, giving them expression in elaborated rules. The English system frames no rule in advance; looks backwards in place of forward, and substitutes the actual experiences of the past for the possibilities of the future. True, the future is not provided for in the latter, except so far as principles are gradually evolved, which make solution not difficult or unexpected when the case arises, whereas the former professes to make such provision. But is this provision ever made with success? Does any code really offer a text, which, when applied to the circumstances of an individual case, at once, and without reasonable doubt, decides it? Let the innumerable decisions on some of the most celebrated codes answer the question.

Take the *Ordonnance de la Marine* of Louis XIV. How simple and brief, and apparently plain, the text. Yet who ever read the ingenious commentaries of Valin or Boulay-Paty on any and every article of it without owning that the text was only plain because the difficulties of particular cases were not present to view, and only simple because their complications were excluded. The same thing is true of the codes of the French Empire, and of all others which the world ever saw. The truth is, that the intricacies and complexity of possible combinations of fact are beyond the range of human conception, and any attempt to foresee and provide for them all beforehand, and dispense a ready-made justice with success, will give little reward to the labour it wastes.

But a code resting on no detailed decisions, or elaborated instances, to expound it, has an especial evil of its own. There is no more fruitful source of doubt and litigation than the meaning of language. The careless use of language does much, but the inadequacy of language as the vehicle of precise thought, does perhaps even more. What treaty, or code, or statute was ever so framed that its meaning in all possible contingencies was free from reasonable controversy? Now the especial evil of all codes and statutes is, that over and above the difficulty of framing adequate principles, the ambiguities of construction are introduced. Expressed in certain definite language, its force depends upon the interpre-

does he not rather fall back upon the general legal principles with which his mind is embued?

Now I hope I am not too sanguine in this, but I cannot resist the belief that within the bounds of reasonable labour and time, the general principles and broad bases on which our common law reposes, and which tacitly guide the decisions of our courts, might be brought to the surface, grouped together, subordinated in their several relations, and contrasted in their differences. An attempt of the kind, and not without great success, was made by the late Mr. Smith in his leading cases. And those who have studied the notes of that book, will not fail to perceive how easily, and with what success, large groups of cases treated and handled together, have been made to yield up short and succinct propositions of law. What I desire to see is a similar attempt made with authority, and on a much larger scale, to be finally confirmed by Act of Parliament; but I do not conceal from myself that the first judicial minds of the country are alone adequate to the task, at least in its ultimate stages, and that it is far beyond the reach of the unpaid services of occupied men.

If such a result could be obtained the benefits are not doubtful:—To the student and the general public, the vast area covered by the law would present a district set out in order, in place of a tangled thicket. The true bearing of each abstract proposition would stand out plainly, because side by side with others of a similar nature. Here, too, another great advantage would be reaped. As the decisions which have radiated from some central case come to be classed together, and their common principles with its qualifications and limitations extracted, all those of a questionable soundness would come to be suppressed. That our books abound with such, cannot be denied; and their expurgation by authority is an end of great importance. For once entangled in them, the courts are either led astray, or only escape to the doing of justice by some refined distinction, which in its turn becomes a snare for the future.

It is thus that error once committed under our present system is perpetuated. And decisions whose soundness is doubted for years, continue for years to be the rule of judgment, and the source of endless distinctions and refinements, until at last they are either trampled out by the reiterated dicta of the tribunals, or reversed in regular form by the courts of appeal. Many, too, are the instances of discordant decisions on identically the same subject, and it is not an uncommon remark, "That all the cases upon this subject cannot be reconciled." Any classification by authority must decide

calls into being a number of decided cases so large as to threaten the extinction of the law as a conscientious study. I do not stop to inquire into causes, but the fact is that the present century has added more decided cases to the law than are to be found in the records of the five preceding centuries put together. This vast agglomeration breeds not only confusion in those who are to be bound by the law, but inconsistency in those that administer it. No power of assimilation can keep pace with that of such production, and the tribunals, occupied to the full with the business before them, have little time to master the results of cotemporary decision. This evil is aggravated by a competitive system of reporting, and the record of useless cases—but the source of it lies deeper—and the time has come when we may well ask whether the record of our law is always to lie in detailed instances, whether its principles are capable of no exposition, and whether the most laborious and wealthy community in the world will be content to pass on to posterity a shapeless mass of scattered laws as the legacy of its labours and its wealth.

But the cause is that of the present generation as well as of posterity: Is the nation well content with things as they are? Are the conclusions of the law any longer accepted without test, and received without inquiry? Time was when the law had its priesthood, its mysteries, and its faith. The science of the few was ever the mystery of the many; and while want of knowledge in the latter forbade the support of reason, possession of it in the former commanded the homage of reverence.. Our people have ever loved justice and order, and revered the law as the guardian of both. Perhaps this has been in past times carried too far. It concealed its errors and even gilded its faults. Did an estate pass to an unexpected hand by a flaw, the victim received his condolence, but the superior wisdom of the law had its worship. If strength has the element of the sublime, the inscrutable has not less so, and it was just because the ways of the law sometimes passed reason that they achieved admiration. A severe exactitude in the application of a system highly technical has ever been the foremost blemish of English jurisprudence. It was not difficult to exalt this severity of precision into the inflexibility of justice, and mistake an iron rule for a golden precept. And such was the tendency of the national mind, hugging itself in the conceit that its laws were not as the laws of other countries, and well content to worship what seemed at least mysteriously wise.

But our lot is cast in times of a far other character. Reason and veneration—the two great forces by which instituted *rights* are upheld—bid fair to change places, and while one

discussed, I trust, by others. But I may add a word on the spirit in which legal changes should be approached.

The great evil which has ever beset our judicature, is that which legal education engenders—the prizing above its worth of refinement and precision. This it was that in legal procedure sacrificed the substantial rights of thousands at the altar of mere words. It culminated in the new rules of pleading of 1834, and begot its own downfal in the triumph of its complete adoption. But it still lives in all branches of our law.

The fear of going too far ever present; the fear of not reaching justice faintly felt. Positive injustice worked in the present to avoid possible injustice in the future. Rights so bound in safeguards lest they become wrongs, that they cease to be worth asserting; a structure in which form ever over, lays substance; and a contest in which justice is apt to sink under the weight of its own armour; while precedent, casting its shadow both ways, binds the present by the errors of the past, and narrows it by the possibilities of the future. Such are the fruits which a spirit of servile precision and over cautious exactitude is calculated to bear. Nor is it the spirit of the lawyer alone.

It is not long since a great peer was accused of shooting at a fellow-subject in a duel, and acquitted because it was not made to appear beyond doubt that his Christian name was Harvey Garnett Phipps as charged, and not Harvey only, to which the proof extended. Nor have many years passed since a great demagogue conspired, if he did not levy war against the Queen, and went unpunished after conviction, because the highest tribunal in the land decided in accordance with our legal system, that the proceedings were faulty in form. And yet our own generation looked on without outcry, and accepted these results without indignation.

To all those who would earnestly lay their hand to the task of law reform, I would counsel the necessary boldness to grapple with this evil. I speak not of that ignoble boldness which is assumed to challenge the admiration of the multitude, and play the part of superior wisdom in the eyes of the ignorant by sweeping denunciations of that to which others bow. Nor of that audacity which is the spurious offspring of veneration, chafing under the reverence of others, and casting off its own in a spirit of defiance. Nor of that begotten of idleness and shallowness, and sloth which feels the wrongs of a system whose true defects it takes not the pains to discover, and flies out into a general condemnation.

But I mean that boldness which is born of the firm conviction that *whatever is contrary to common sense and natural*

Address

BY

HIS GRACE THE ARCHBISHOP OF YORK,

ON EDUCATION.

THE departments of Education to which I wish to draw your attention in the present address, are three—the highest education of the country, carried on in our public schools, the education of sons of yeomen and of what are called the middle classes, and the education of girls in the middle and highest schools. These are the subjects which seem to me to belong to this year and to the present meeting. National school education has received a large share of public attention, in the debates and controversy about the Revised Code. The alterations made thereby have produced some of the expected results; but probably most of us expected a larger reduction in the number of pupil-teachers than has actually taken place. The number admitted in 1863 to apprenticeship "was greater than that in 1862 by 209, and only less by 13 than the number admitted in 1861 under the previous Code."*

There is a falling off in the number of students in normal schools, upon which we depend for our supply of masters and mistresses; but three-fifths of the decrease is in Scotland, where the number of those in training was already in excess. In England the decrease amounts to about 200.

In part of this great country the education of the poor is subject to one peculiar disadvantage. In the rural districts one parish consists perhaps of three or more hamlets or townships, each with a population of one or two hundreds, too small to sustain a school for itself, and too distant from its neighbours to combine effectually with them. In fact the parishes with small populations take little advantage of the Government regulations. Of the parishes with more than 5,000 inhabitants, which include in the aggregate nearly eleven millions of our population, only 8½ per cent. are with-

* Report of Committee of Council, 1863-4, p. 23.

which the present year presses upon our notice. And first let me speak of the public schools.

The very able report of the Royal Commissioners, appointed to inquire into the revenues and management of nine of the principal schools, cannot fail to have great effect upon the state of education. But this will be produced even more, I think, by the abundant information which the Commissioners have collected and arranged by an admirable method, than by the recommendations by which this information is accompanied, valuable as these are. Brought into strong light, many abuses that exist will disappear, whilst the best and most successful modes of teaching and management in one school will gradually spread through the others.

According to the Commissioners, a public school should be managed by a body of governors, by a head-master, and by assistant-masters. All these elements exist at present; but the governors would be expected henceforth to take a more prominent share in the conduct of the school; and it is therefore recommended that the mode of appointment should be so modified as to secure an efficient body. To them would belong all financial and sanitary questions connected with the school, the number of the boys, and the terms of admission; the regulation of the chapel services, the times and duration of the holidays, and "the introduction of new branches of study, and the suppression of old ones, and the relative importance to be assigned to each branch of study." They should be empowered and charged to make regulations on all these subjects from time to time, but they should be bound to consult the head-master and to hear his views, before making any regulation upon any of these subjects.

That questions of fees and payments, of the state of the school buildings, and of the footing on which foundation boys should stand in the school, may well be left to a body of governors I have no doubt; at the Charter House, and probably at other schools, great zeal and attention is shown by the governors in questions connected with property and with the improvement of the comfort of the boys; it may be always possible to secure this kind of service from a well-chosen body of governors; but I doubt whether such a body ought to have forced upon them the function of arranging the studies of the school. The initiative in such changes should rest with the head-master, who has the strongest personal interest in the success of the school as a place of education, who is chosen for his knowledge of the science of education amongst other qualities, and whose authority with his masters and his pupils would be impaired by any suspicion that might

the grace and the beauty of it depart at once. It is no longer a graceful concession from the highest authority in the school to his subordinate officers; it is a right which they all possess in common. They are, in the words of the Report, "entitled to advise" him and entitled to address the governors if he is deaf to their advice. The establishment of such a council would be a fundamental change in the relations of the masters of a school. It might enable one or two ambitious men, with crotchets about education or discipline, to weaken materially the authority of the head-master among the trustees, and such a deplorable difference would soon be felt or understood by the boys.

These two recommendations of the commissioners might be of some use in the case of an inferior or incompetent head-master. But the head-master is the school; and no talent or zeal in the assistant-masters, no vigilance in the governing body, no council entitled to advise, would be able to remedy the evil, in the very rare case of a head-master unfit for his high office. The great function of governors is to choose the right head and to support him.

We should expect to find that classics are still to be preserved as the chief subject of study. But one of the most useful portions of the Report is that which indicates for mathematics, for modern languages, for natural science, and even for music and drawing, a substantial share in the educational course, and which provides that a student may, after a certain point, abandon some portion of classical work in order to find time for other subjects of study.

It will probably be generally admitted that this valuable volume has gone as far as any such inquiry can do, towards the solution of a most difficult problem; that of harmonising the ancient studies with the great variety of modern knowledge and the different modes of modern life. This Report, with its enormous mass of evidence, must be regarded, not as a complete solution of the question of school-reform, but rather as an excellent starting point for new experiments towards a solution.

And of this question the hardest part is, What shall be done with the dunces? When a youth presents himself for admission at the University he has spent seven or eight years in an education almost exclusively classical. He is expected to translate passably a small portion of a Latin and another of a Greek author, selected from those which he has read; and to turn into Latin a short and easy passage of English, and to answer some easy questions in grammar, and to show some knowledge of the common rules of arithmetic. This is no very

of Inquiry is about to issue on the subject of the smaller foundation schools in the country, and as its report will probably contain much information bearing on this subject, the present would be the worst moment for putting forth any scheme pretending to be mature. But it can hardly be disputed that a great need exists of schools, and especially of boarding schools, in which the son of the tradesman and the farmer may have secured to him a sound and useful education. There may be many private academies in which he may find it, and for them there will still be room; but good schools, with a governing body composed of men whose names would guarantee the best management and methods of instruction; schools that are systematically inspected and tested from time to time; schools that aim at an education as liberal and enlightened as that sought by our great public schools, only shaped for the mode of life which the pupils are to lead hereafter; schools so moderate in their expense that they do not exclude on that ground the class for which they are intended; these are really wanted in every county in England, and that great middle-class, so active, so frugal, so orderly, so loyal to Queen and laws, which contributes so much by its hatred of agitation and its refusal to be misled, to the peace and security of the country, would gratefully receive, and would well requite, any efforts made in that direction. Consider how the welfare of the whole country is bound up with this subject. Consider how powerfully this class acts upon those that are above and below it. Even as it is, that middle-class is constantly sending up shoots into the strata above it; and the yeoman sees his son a thriving merchant or professional man, and his grandson in some office of high dignity and trust. If a nation is rich in the intelligence, and energy, and integrity of its sons, is it not well to send the ploughshare of education deeper into the subsoil already so rich and prolific? Then, looking downward, how can you hope that the education of the lower classes will thrive, when the class above them is jealous and suspicious of education because it does not possess it? Terrible, though contracted, is the power of the small autocrat who in some outlying farmhouse administers the destinies of wife and children, of servants, male and female, dwelling together under his roof. If the lord of that house, for so he is, is intemperate and licentious, if he keeps his family from the house of God, and from family worship, if those under his charge imitate his licence, or, worse still, fall under his direct temptation, it is useless to educate children in that parish, that are afterwards to pass, as servants, through that fire of Moloch. It is useless to

and needs no inquiry, and also much that cannot be settled by inquiry, but only by experiment, because there are no precedents. We want no assurance that education is needed by the middle class, nor that a good commercial education can be given; on all these points a Blue Book may give us detailed information, but would add nothing to the force of our conviction. What we require to know is whether a good school of this sort, managed by men of such a degree of intelligence as any county in England could supply, and conducted by a master and assistants such as they could always depend on securing, can be undertaken to give a thoroughly good education for a payment such as the class for whom it is meant would be able and willing to pay. This can only be answered by repeated experiments; no commission can tell us. Calculations *à priori* would be likely to mislead; they would show us what was feasible under favourable conditions. We want to know what is actual. In a good observatory, everyone of the astronomical staff has ascertained by repeated observations the average of his "personal error;" that is, the minute particle of time by which his hand may be too slow for his eye, or his eye too quick for the star, and which is found to vary in every two men, but to be pretty uniform in the same man at various times: and this personal error is always taken into account in all his observations. What is the probable personal error in the member of the staff of a middle-class school, to be allowed for in all the calculations? How much is to be allowed for waste, for want of vigilance, for sudden fluctuations in numbers? These elements may make all the difference between success and ruin; but I do not see how they are to be ascertained except by actual trials. Experiments have been already made; and the results are encouraging, but for special reasons, into which I do not enter, they are not conclusive. Let us hope that long before the Blue Book shall issue from the womb of time, and without waiting for the Act of Parliament, which may not issue at all, experiments of the same kind may be multiplied, so that we may be in a condition to contrast the proved success of the new education with the torpor of the old foundation-schools, and may supply to Parliament a conclusive argument in favour of extending the change.

Whenever that subject comes under consideration, I trust that a broad view will be taken of what are often called the rights of the poor in this matter. When travelling was tedious and difficult, and local privileges and prejudices strong, education was provided for the city or the county in which the donor's property lay. If Cumberland for its poverty was

somebody else, to gain a scholarship which the founder expressly excluded them from as born in the wrong place; and they know too well the advantages which this general break up of local restrictions has produced elsewhere, to go back to their own town and advocate the maintenance of this system there. I sincerely believe that at no time in our history has it been less difficult for a youth of real merit to procure for himself the best education, in whatever circumstances and position he may have been born.

It is no wonder that the state of female education should find a place in the deliberations of an association like this. A desire for an examination for girls of the middle and upper classes, has been expressed by many whose opinion is sure to have weight. It is proposed that the so-called "Middle-class Examinations" of Oxford and Cambridge should be extended to girls' schools. As I have had some experience of these examinations, I may venture upon the opinion that it would be difficult or impossible for the Universities to undertake this duty in addition to all that is at present incumbent on them. If the present examinations became general, so as to include every school, and every pupil in that school of age to compete, the Universities would be unable probably to find time and men to conduct them. But there are other difficulties in the subject. The same examination that suffices for the boys would hardly be suitable for girls; and a different scheme, suitable for the present state of female education, would not be best elaborated by a University Board, or best conducted by Fellows of Colleges. The plan of such an examination should be the work of a special council, from which women should not be excluded. The experience that has made Queen's College in London so successful, should be brought to bear upon it. None of us desire, I suppose, that the education of women should be roughly assimilated to that of men; that precisely the same training should be given to the man who has to struggle in the world in his business or profession, and the woman who is to be the light and solace of a home, the minister of its charities, the thoughtful mother of its children. There are now many women in the upper ranks who have given much thought to the training of their sex. There are many clergymen who have actually been employed therein. It is from these that we must expect an organised plan for examinations, rather than from the Universities, which have rendered excellent service, but are not to be blamed for being unable to extend their efforts into a department which they cannot know. Mr. Norris, in an able paper presented to my Department, has

pointed out that the mode of conducting the middle-class examinations, by collecting the candidates in one central town and examining them together for several days, would be inapplicable by its publicity to the habits of retirement to which girls are accustomed. The machinery of the Society of Arts is much more suitable. On the same day in some hundreds of schools the same paper is set by trusty persons to the different sets of candidates, and all the papers when completed are sent to the central office, and examined and marked. The candidate is only known to the examiner by a number; and thus the teacher can judge, by examining the list, of the precise amount of a pupil's proficiency, whilst the very name and aspect of the pupil are unknown to those who have prepared the information. I have acted also as examiner in mental science to the Society of Arts, and can testify that this system works easily. But all that I feel sure of on this subject is, that a great mistake would be made if, without any attempt at an independent treatment of female education, we catch at some existing scheme of examinations for boys, and assume that it will suit both purposes. The minds of man and woman are the complement each of the other. In that mysterious union of two, which has risen by degrees from a mere instinct to a mutual education of two souls for God and for the highest duties, each married mind teaches to the other its own lesson. The strong man's strength goes farthest when it is softened by a strain of womanly tenderness; and the woman's pious dependence, and fine observation, and delicate tact, are irradiated by the daylight of the masculine understanding; and hard experience and precise laws of duty are added on his side to the common treasure. Of two things both created of God it is wrong, perhaps, to say that either is the higher. But they are certainly distinct; they need and complete each other. And as rude times, with their physical perils, despised a womanish man when men had to hold their own, so the highest civilisation will err if it aims at producing mannish women; for when men, weary with the world's battle, return to the cool shade of their own home, they need the calmness, the refinement, the high cultivation, the unselfishness, the gentle piety, which woman, as she was meant to be, knows how to afford him. The cultivation of a woman's mind cannot be carried too high; but it must be a cultivation proper to her, to her constitution, her mental gifts, her work in the world. Woman is equal to man! Yes, but equal by being herself, and not a pale copy of him. Our great living poet, in that beautiful picture of the Princess, thus shapes her aspiration; and the

same thought has passed over the minds of thousands of her sex.

> . . . . "Everywhere
> Two heads in council, two beside the hearth,
> Two in the tangled business of the world,
> Two in the liberal offices of life,
> Two plummets dropt, for one to sound the abyss
> Of science and the secrets of the mind,
> Musician, painter, sculptor, critic, muse:
> And everywhere the broad and bounteous earth,
> Should bear a double growth of those rare souls,
> Poets, whose thoughts enrich the blood of the world."

But with tears the Princess owned that she had erred from want of humility; and the blood of the world, so to speak, is ever renewed in the order of Divine Providence by a due admixture and attempering of mental gifts from both sides. I have no doubt that the female education of the country needs sifting and reform; it is less known and examined than any kind of male education in the country, and secrecy harbours quackery. But the subject is only beginning to be attended to; it is not ripe for a system of examination. Be it remembered that in the end the examination completely fashions the education; so that people only learn that which they are likely to be asked to produce.

These are the principal subjects connected with education that emerge at this moment. The survey of the whole field is not likely to content us, although so much is being done. In the lower ranks, a system approved as good, fails still to make its way, and a majority of families resist or neglect it. In the middle ranks there is no settled scheme of a sound commercial education, no inspection, hardly any great schools to hold up a pattern to the private venture. In the highest schools there is far too much of admitted failure. And yet there is a great awakening to the value of education in every rank. If there is much still undone, it is because the work is enormous, rather than because the workers are slack or unwilling. Such meetings as this, such discussions as I have heard, will send us all back to our callings more deeply impressed than ever with the great national want. There is moreover one great encouragement. I understand by education the training of the whole mind for the world around it, for the duties it has to discharge here, and for the service it has to perform for its great God and Saviour, to whose bosom it hopes hereafter to return. I will not debate the question how far intellectual cultivation by itself does good or harm. But the education which alone is worth any real pains to secure for the country is the mental, moral, and religious

training of souls marked by God for His own. Now in this respect there is a great improvement in every kind of schools. Everywhere religious teaching begins to be exalted. Greater prominence is given to it; and it takes a much more real and practical form. This is a gain indeed. This is the true education which in opening out the treasures of the world to a young mind, shows also that the fashion of it passeth, and that our abiding home is not here. This is the education which really enhances knowledge by giving it its proper aim. This is the great object of civilisation. Before this the vices and evils of our fallen condition are scattered and flee, as the mists and shadows hasten away when the sun pursues them.

Address

BY

SIR CHARLES HASTINGS, M.D., D.C.L.,

ON HEALTH.

WHEN I accepted the honourable position proffered to me by your Council, I did so with a full conviction that I should meet from this assembly a kind reception, and that, however far I may fall short of my distinguished predecessors, I shall receive an indulgent criticism at your hands.

The question of Public Health is so large, and branches off into so many and intricate paths, that I should in vain attempt to draw your attention to the whole subject; and I feel grateful for the arrangement which in this, as in the other Departments, has pointed out certain special questions for discussion.

We will first glance at some general principles. Sanitary science, in an extended sense, must be regarded as considering the constitution of man in reference to external objects. It has been wisely said "that physical laws of nature, affecting our physical condition as well as regulating the whole material system of the universe, are universally acknowledged to exist, and constitute the elements of natural philosophy and chemical science. . . . Accordingly, the laws of nature have formed an interesting subject of inquiry to philosophers of all ages, however few may be those who have attempted to point out in a systematic form the relations between those laws and the constitution of man, which nevertheless must be done before our knowledge of them can be beneficially applied." In looking back on what has been done by the Association in this branch of its labours, it must be admitted that these views are in harmony with the recorded proceedings of our Department. Its presidents have, in their addresses to the members, successfully and eloquently pointed out the necessity of studying the organic laws in every attempt to improve the health of the community. Nay more, that it should be alike our duty and our highest pleasure to show the beneficence of the

Creator, who made the eye for seeing, the ear for hearing, and the brain for the manifestation of intelligence and will; and to prove to a world which has too much neglected or utterly ignored the fact that the laws of bodily are those of mental health. I consider it to be the sacred mission of this Association to impress upon the body politic these enlightened views, for be assured that the more we can procure their practical adoption among communities of men, especially in large towns, the more we shall succeed in the chief end for which our society was called into existence, the improvement of the condition of the people.

With this aim steadily before us, it is matter of congratulation that the Council have set forth, for consideration at this meeting, some problems intimately connected with the progress of sanitary science; the three subjects so pointed out being—The best mode of disposing of the sewage of towns —the causes of, and the means of preventing excessive mortality among infants—and the influence on health of the overcrowded dwellings of the working classes.

Nothing can be more certain than that the mortality of towns is greatly increased by the imperfection of the means for disposing of their sewage, and that a satisfactory solution of this question is a desideratum of great importance. Hitherto, the growth of a fresh evil has been in too many cases coincident with the increase of town drainage. The sewage thus collected, has been heedlessly cast into rivers to pollute their waters, to destroy one source of food supply in their swarms of fish, and to convert the healthful stream into an impure ditch. Such, as many can testify, is the condition of the rivulets in our manufacturing districts; such, in a degree, is the condition of our noblest rivers. The state of the Thames has long been notorious; a gigantic effort is now being made to restore its purity; but it is a sad reflection on the economy of the age that an expenditure of three millions of money will lead to no more satisfactory result than the daily casting of nearly ninety millions of gallons of highly fertilising matter into the sea. So again with that fine river the Severn; the refuse of the towns on its banks, and indeed of some far from its banks, is poured into its waters, and as I pointed out in a contribution which I had the honour to make to the Association at the Birmingham Meeting, and which was subsequently printed in the *Transactions*, the river is thus poisoned and made unfit for the supply of pure water to the inhabitants of the districts which it traverses. A Select Committee of the House of Commons has recently collected much valuable information, and has made some useful suggestions on the subject;

we have heard at this meeting from Mr. Rawlinson and others well qualified to speak on the question, the latest results of scientific investigations; it seems capable of demonstration, that the application of town sewage to land may be made pecuniarily profitable; and I trust that the discussion which has taken place may lead to the adoption of some practical plan by which the improved health of the community, and the renovation of the producing vigour of the land, may be alike secured. In this respect, as I believe in many others, it will be found that health and wealth go hand in hand, and that science is the parent of economy.

The revelations that have been made in the returns of the Registrar-General, and the results of recent laborious investigation in large towns on the subject of infant mortality, are absolutely appalling. This mortality cannot be said to be peculiar to any state of society, for it exists under circumstances most dissimilar in our urban and rural population. True it is that it is found in its most serious form in our large towns, but the returns of the Registrar-General, and the able Report lately presented by Mr. Simon to the Privy Council, show that under conditions not yet fully determined, infant mortality is very high in rural districts. It will require much patient labour on this question to eliminate all sources of erroneous calculation so as to arrive at the exact truth, and to draw safe deductions therefrom. In the meantime it is clear that in our large towns potent agencies are ever at work to which much of the deadly destruction may be charged. First among these is the over-crowded state of dwelling-houses, but as I shall have to allude to this subject under another head I will now only say that the impure air of crowded, badly ventilated, and badly drained dwellings is singularly inimical to young life, for during the earlier period of human existence a free supply of oxygen is of peculiar consequence to carry on healthily the vital functions. Then again, the poor form a large proportion of almost all communities, and a deficient supply of nutriment to the infant is the frequent consequence of the want by the parents of the necessaries of life. Thus sickly and fragile children are produced, and it is found that the ordinary epidemic diseases, to which all infants are more or less liable, fall upon these feeble beings with great severity. Many succumb to their influence, and those who survive grow up a debilitated race, and never bring the full quota of health to the life of their generation. Of these diseases, scarlatina is peculiarly destructive. Considering the progress of sanitary science, it is mortifying to reflect that within the last year we have had to deplore a

serious loss of young life in many parts of the kingdom from this epidemic. Its prevalence in towns where great attention has been paid to drainage, and where the water supply has been improved, shows that we have not yet solved the problem of preserving infant life from such visitations, and that every stimulus ought to be given to inquiry into the obscure working of these subtle agencies on the human frame in its early period of development.*

Perhaps there is no view of society more disheartening than that which is afforded by the facts lately brought to light respecting the murderous destruction of infant life. A return has been made to the House of Commons by which it appears that no less than 22,757 inquests were held in the course of last year upon persons who had come to their death in some violent or unusual manner. But it is in respect to infants that these returns are most deplorable. Nearly one-third of the number of inquests—or 6,506—were held upon infants under seven years old, of whom over 1,100 were illegitimate. There were held 3,644 inquests on children under a year old, and of these nearly 1,000 were illegitimate. There can be no doubt that the crime of infanticide is of frightful prevalence, especially when the marriage tie does not throw its consecrating protection over the mother. With such a gigantic evil how are we to contend? That attempts should be made to diminish it I think few will deny, for although we cannot eradicate the crime, we may check its growth. The public meeting over which Dr. Lankester presided some time ago at the Freemasons' Tavern, was a move in the right direction, and let us hope that some preventive measures may soon be adopted.

I pass to the third question contained in our programme.—What is the influence on health of the over-crowded dwellings inhabited by the working classes? The reply to this inquiry is of paramount importance. Over-crowding is not confined to the inhabitants of towns: it exists to a great extent in the rural, as well as in the urban districts, and is in each case a pregnant source of disease. There is no doubt that its effects are most conspicuous in towns; for there the atmosphere surrounding the habitations is, as a general rule, more polluted than in the country; but the cottages in country districts are

* It is a subject for consideration how far the mortality from epidemic disease might be lessened by the establishment of children's hospitals. Many lives might be saved if, on the first appearance of scarlatina in a community, the children were quickly removed out of their crowded and unhealthy dwellings to well ventilated hospitals.

often so over-crowded that less than 100 cubic feet of air is allotted to each inhabitant; and when any epidemic visitation appears in such localities, a higher rate of mortality is caused, especially among the young.

Perhaps of all the questions relative to the improvement of towns, that of over-crowding is most difficult of solution. In London great efforts have been made, and are now in progress, to diminish the evil, but it still prevails to an alarming and dangerous extent, and calls aloud for the application of such remedial measures as may be possible. The misfortune is that the diminution of the evil in one part of the town has a tendency to increase it in another. Thus the destruction of old streets and the formation of new not unfrequently has the effect of forcing the working people into habitations more crowded and more objectionable than those that they have left. This, however, should not stop the progress of improvement, but should stimulate to further effort to dispose of the population thus dispersed.

Model lodging-houses have in many instances been erected to set an example of improvement, and to show how much the health of the worst localities can be improved. But unless the municipal authorities in our towns can be convinced that it is their duty to take the lead in this movement, it is not probable that anything adequate to the extent of the evil will be achieved. Such rare munificence as that of Mr. Peabody is not likely to find many imitators, and although in some instances model lodging-houses have succeeded in a pecuniary sense, yet generally speaking no such return on the capital invested as will tempt private enterprise has been realised from these undertakings. Full information on this subject will be found in the valuable papers contributed, on more than one occasion, by Mr. Henry Roberts, to the *Transactions* of this Association.

In the city of Worcester, where I have exercised the profession of medicine for half a century, I can produce, on a small scale, a striking illustration. More than ten years ago, an association was formed to build model lodgings in one of the lowest and most degraded parts of the city, where there was a squalid population and a death-rate of not less than twenty-three or twenty-four in a thousand. The old houses were cleared away, and in their place a rather handsome pile of buildings was erected, and the internal arrangements of some of the London model lodgings were copied. It is gratifying at the end of ten years to be enabled to say that great success, in one point of view, has attended the experiment. A most decent set of inhabitants, belonging to the working

classes, tenant the houses, and form an agreeable contrast to the former inhabitants. The sanitary result is highly encouraging. During the last five years, in a population of about 140 men, women, and children of the artisan class, occupying thirty-four houses, there have not been more than eight deaths; thus reducing the rate to sixteen in a thousand. It is also worthy of note, that whilst Worcester, from the month of November, 1863, to the month of May, 1864, was visited by a severe epidemic scarlatina, attended by a high rate of mortality, only one death from this cause occurred in the model lodgings. The financial result is less satisfactory, for although the houses have been well let, the pecuniary return has not been hitherto such as to make it a remunerative investment for capital, two per cent. having been the best rate of interest realised. I see no reason, however, why the experiment should not succeed financially, if the authorities would take the lead in the matter, and carry out the improvements cautiously and judiciously, by altering, amending, and cleansing old buildings, and adding to them all the modern appliances, rather than by removing them altogether, and erecting new ones in their stead.

Before quitting this subject, I may observe that the spread of epidemic fever is greatly aided by over-crowding and want of ventilation in houses. Perhaps of all causes this has most to do with incubating and diffusing those continued fevers, which are known as inflammatory or relapsing fever, typhus, enteric, and gastric fever. Concurrent experience seems to show that by diminution of the numbers in a given space, so as to obtain pure air, and by free ventilation, you stay the progress of these diseases. It is by these means especially, that model lodging-houses have been instrumental in diminishing the death rate of crowded localities; though no doubt improved drainage and water supply have acted powerfully in the same direction. A forcible illustration may be seen in the results of the improved sanitary arrangements in our prisons. In the year 1783, as I shall have further occasion to mention, a severe outbreak of fever took place in the county gaol of Worcester, while in 1863, when a fatal epidemic scarlatina raged in that city, not a single case occurred in the prison; showing, conclusively, that under proper hygienic conditions a barrier may be opposed to the inroads of infectious disease.

It is, however, not less certain that alterations of the soil and surface of a country are influential in modifying the character and abating the prevalence of particular diseases of the febrile type. My distinguished predecessor, Professor Christison, alluded last year to the alteration of the type of

disease, more especially in Scotland, through the disappearance of intermittent fever, or ague. This fact he was enabled to prove in a satisfactory manner from the dispensary records at Kelso, which show that the agues appear in these records from 1777 to 1806, after which they disappear from the books. Now it is certain that in England many districts were subject to ague about the same period of time, and equally certain that for more than half a century they have been free from it. The Worcester Infirmary was founded in the year 1745, and I have discovered by consulting the records of that institution, that during the latter half of the last century cases of ague were very frequently admitted, but the disease disappears from the books about the year 1800, and I can state positively that since 1812, in which year I became connected with the hospital and have continued so more or less intimately down to the present time, scarcely a case of ague has occurred in the district. As far as my own practice goes, the few cases I have had to treat in Worcestershire during the last half-century have been imported into the county. Here we have a change of type in disease, and the question is how it has been brought about. The common solution is that the country has been drained, and that ague has consequently ceased; to this Professor Christison demurs, and denies that drainage had been effected to any considerable extent in Roxburghshire till long after ague had disappeared from Scotland. He seems to draw the conclusion that this change of type in disease was not owing to the improved drainage of the country.

Now, whatever may have been the case in Scotland, I am in a condition to prove that a very great alteration of the soil and surface of the county of Worcester took place in the latter part of the last century. The chase of Malvern was, up to a comparatively recent period, a royal forest, and, as it was situated in the vale of the Severn, and liable to be inundated, its rank vegetation would be likely to produce miasma of an active kind; a sufficient cause at once for the prevalence of ague. Towards the end of the last century, nearly the whole of this chase, which contained many hundred acres of land, was enclosed. The effect of this enclosure, and of the cultivation of the soil, was considerably to alter the surface of the country, and to make the land drier. There was not, indeed, any such scientific drainage as is now practised with so much advantage to agriculture; but the mere effect of ploughing, of making water courses and ditches, and the substitution of serial crops for rank vegetation, must have had a great effect in removing water from the surface of the land,

and in diminishing miasmatous exhalations. So that, as regards Worcestershire, the disappearance of ague seems to be accounted for by its being coincident with a very material diminution of the causes which are known to produce the disease.

The alteration of the type of disease in Worcestershire is not confined to intermittent fever, but I think to some degree an equally satisfactory explanation can be given of other changes. On studying such records as exist of the fevers prevalent in the last century, it cannot be denied that they vary greatly from those of this generation. More especially is this shown by the comparative rarity of continued fevers at the present day. I can quote from a contribution by a resident practitioner in Worcester, on the various sources, symptoms, and treatment of fevers as they occurred in that city and its immediate neighbourhood, between the years 1781 and 1820. He remarks that in 1781, the city and suburbs of Worcester were much subject to fever; and if we consider the wretched state in which many of the lower classes of the inhabitants were crowded together in the remains of the former clothing manufactories; the neglected state of the streets in which these buildings were situated; that even those in the most airy parts were but partially under-drained, and that the drains were so ill-constructed as frequently to admit of their contents stagnating and infecting the air for a considerable distance round their grates; considering also the large quantities of water highly charged with animal matter, issuing continually from the glove manufactories, we feel no surprise that idiopathic fevers did, during this time, frequently and generally prevail in Worcester.

The severity of these visitations may be estimated by the fact stated by the same authority, that an epidemic fever, in 1783, lasted for eight months, during which time he attended seventy cases in the county prison, of which number thirteen died. There appears to be no doubt that these frequent scourges induced the inhabitants to make efforts to better the condition of the poorer people by cleansing the streets and improving the houses; and that these efforts were followed by a diminution of disease. In the year 1812, when my medical connexion with the neighbourhood commenced, typhus and enteric fevers were of a milder type and less frequent, though severe cases of typhoid fever were still not unfrequently admitted into the infirmary. And so matters continued till the year 1832. In that year came the first outbreak of cholera, when the whole city and county were seized with alarm as to the

probable effect of the visitation. The calamity was met by the city with wisdom and firmness, and vast improvements resulted. The houses were cleaned, the streets were better drained, and much was done to better the condition of the labouring classes. My conviction is, that from that time the health of Worcester, as respects epidemic fever, has been materially improved; and I may state that during the last twenty years of my attendance as ordinary physician at the Worcester Infirmary, I very rarely admitted a case of fever. Nor can I doubt that this comparative immunity from continued fever, and the diminished severity of its type, must be attributed to the better habitations of the labouring classes, and to the improved drainage and water supply which within the last few years have been obtained by a great but assuredly a highly remunerative expenditure.

Yet much remains to be done. During the last year we have had an admonition that Worcester is not safe from outbreaks of scarlet fever. That terrible disease began to rage in October, 1863, and continued its ravages in the city and suburbs until the summer of the present year. The mortality, which was greatest among children under twelve years of age, reached as high as 250, in a population, according to the census of 1861, of 32,802. Such a loss of life forces on us the question, how is it that in a community where several sanitary improvements have been effected, and where the occurrence of the ordinary continued fevers has been so considerably diminished, such an outbreak of disease can take place? The question is important, and applies more or less to the whole country, the case of Worcester, which I have taken as an example, being the case of many other towns. The answer is twofold. In the first place the ordinary sanitary improvements which may be effective in lessening the fatality and frequency of fevers less intensely infectious, fail to stop the progress of scarlet fever. This may arise from the activity of the poison productive of that disease, and which is generated profusely by every person attacked, contaminating the air around him, and endangering the individuals with whom he comes into communication.* It is clear that some active measures of a

* Dr. Murchison in his lectures justly states that scarlet fever depends upon a peculiar poison, capable of being communicated by the sick to persons in health. This it is which explains its frequent visitation to rural districts where the causes producing zymotic disease do not appear to be very operative. A remarkable instance occurred in the neighbourhood of Worcester during the late epidemic. The parish of Martley has an exclusively rural population, with an ordinary mortality of about 21 per 1,000. There are no specific circumstances in the locality which appear likely to produce

preventive character would have a salutary effect. When the cholera visited Worcester in 1832, the inhabitants were so alarmed that stringent means were promptly taken by the public to meet the danger. In every place where the disease appeared, the houses were purified; the persons attacked were removed to a hospital, and the crowded dwellings were emptied of their inhabitants, who were placed in temporary buildings erected for the purpose.

Yet the cholera of 1832, which was thought terrible enough to produce these exertions, killed fewer people in Worcester than did the scarlet fever of 1863. I do not say that the same plan could be always carried out for the prevention of scarlet fever, but the check given to the spread of cholera by the vigorous efforts I have described, points to the establishment of some system of medical police by which persons labouring under infectious disease may be prevented from disseminating the poison throughout the community. But in the second place much must be added to the ordinary sanitary improvements before any charge of failure can be made against the science of health. Houses must be well ventilated, and overcrowding be avoided; the means of cleanliness by baths and washhouses be provided for every citizen; and above all, perhaps, an effective house-drainage must be applied, to make the main sewers of real use. It seems to me idle to point to the continuance of fever in towns where cesspools and middensteads are allowed to collect impurities. Such towns are not in a sanitary condition, and must expect the visitations of disease. However beautiful their situation and imposing their architecture, nay, whatever their expenditure on sanitary measures, such cities are but whited sepulchres, hiding under a fair exterior the rottenness of corruption and death.

It is possible that the day may come when, as in small-pox, a mild disease may be substituted for scarlet-fever: and some continental physicians have brought forward facts which if duly authenticated would render it even probable. But were such a discovery assured, it is to be feared, should the community at large remain as ignorant of physiologi-

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zymotic disease. In the month of December, 1863, scarlet fever was imported into the parish by a tailor, whose business called him to Worcester. This was the spark to ignite the flame. The disease spread, for he lived in a dirty and ill-ventilated cottage, and his family were attacked; in a short time 15 children in the parish fell victims, so that in a population of 1,140 persons, more than 14 per 1,000 were sacrificed. The separation of the sick from the healthy, with the use of disinfectants, and free ventilation, would probably have arrested the pestilence at once.

cal laws as at present, that great indifference would be manifested as to the utilisation of the benefit. The history of vaccination and of the opposition made to its general introduction among our population, is a striking proof of the obstinate adherence to preconceived notions created by uninformed prejudice. If we figure to ourselves the dreadful ravages of small-pox in the last century, and then reflect on the brilliant yet simple discovery of Jenner, by which the disease was robbed of its terrors,. we must be filled with astonishment that sixty years afterwards the country in which the life-giving knowledge was made public, should have failed to realise all the advantages of its adoption. The mortality from small-pox is no doubt greatly diminished, but it is still considerable, and this, in a great degree, from the ignorance and apathy too much prevailing on the subject.

The protection of vaccination is accepted by only a portion of the community, and that a smaller proportion than in many other civilised states, so that the British Isles are deriving less advantage from the genius of their immortal countryman than are the inhabitants of other lands. The same remark applies to our colonies, as is seen from the occurrence of small-pox among our troops stationed in various parts of Her Majesty's dominions. It appears from an elaborate paper on the results of re-vaccination in the British army as compared with continental armies, lately read before the Epidemiological Society, that no portion of the empire is exempt from the scourge. From Canada to the Mediterranean, from the West Indies to Sierra Leone, and from the Cape of Good Hope to India and China, the same tale is to be heard of small-pox prevalent among the civil populations, and of more or less disease among the troops in consequence.

Among the causes which operate to produce this lamentable state of things, the following seem to be the chief:—

I.—The carelessness and want of foresight of a large number of the population, who seldom think of providing against the evils of a future day, and when small-pox is not prevalent, neglect to vaccinate their children.

II.—The prejudices of a few who persist in believing that vaccination is injurious; who ignore the plain proofs of the enormous benefits it has conferred, and who therefore refuse to have their children vaccinated.

III.—The insufficient payment of public vaccinators under the Poor Law Act, the fee usually paid being so low that it fails to induce them to seek out children who have not been vaccinated; and they consequently only vaccinate the children brought to them.

IV.—The want of a duly authorised medical officer to see that the provisions of the Vaccination Act are properly carried out. Great irregularities consequently occur, especially in the issue and returns of the certificates of vaccination.

V.—The want of a more complete registration of births. Many children are born who are not registered, and it becomes impossible to give the notice for vaccination.

VI.—A general aversion on the part of the public to legislation in a matter which they believe to involve interference with their natural rights. This feeling, however praiseworthy and useful in some cases, is, when acting in the wrong direction, fatal to all combined action for the civilisation of man, which requires that many individual rights shall be given up for the benefit of the community. This feeling not only exists among the poorer classes of the population, but even among the wealthy and influential forms a serious barrier to the adequate carrying out of many sanitary measures.

Some of these obstacles in the way of the diminution, if we may not hope for the final eradication of a terrible disease, may be removed by legislation, and we ought, as far as possible, to impress on Parliament the duty it has to perform in this direction. The cry of liberty of the subject ought to be scouted in every case when the exercise of this so-called liberty endangers the lives and health of others. It is just as criminal, and calls as loudly for the interference of police authority, to spread small-pox by the exposure of persons infected, as it is to set fire to a barn or hayrick; but I fear that it is much more easy to put the law in force in the one case than in the other. Nor should the liberty of parents be recognised to put in peril the lives of their children. The law does not permit a parent to starve, or ill-use, or overwork a child; it compels proper care and maintenance; should it not also compel, and that stringently, the adoption of a safe and simple means for securing it from disease and death? Yet, I admit that in such matters the law must always be less powerful than public opinion, and it is the paramount duty of this Association to educate the popular mind, and to show the nation how deeply it is interested in the dissemmination of sound views respecting zymotic diseases.* Some people

* The diffusion of knowledge on many matters relating to the public health, has been greatly aided by the labours of the medical department of the Privy Council. The reports, published by the officer of that department, Mr. Simon, have been of much value, and they promise to illustrate some of

have had their faith shaken in the efficacy of vaccination, because cases occur of small-pox after that operation has been performed. But the truth is, that such cases are likely to occur, for even small-pox itself is not a positive protection against a second attack. Let it be remembered, however, that the occurrence of the disease after vaccination is a rare event, that it is then nearly always much milder in its character, and the rate of mortality low. Moreover, we have an additional preventive in the practice of re-vaccination, which has been too much neglected, but is now beginning to be more generally observed, and to command the close attention of the medical profession. The experience which has been obtained seems to prove, that if vaccination and re-vaccination were uniformly carried out as effectively as they ought to be, the disease would become almost unknown. It is a remarkable fact that in the Small-Pox Hospital not a single person, servant or other, has for twenty-five years past caught the malady, and this immunity is explained by the fact that every one in the establishment, without exception, is subjected to re-vaccination, and that care is taken that the operation should be thoroughly done, and a considerable amount of local inflammation be produced. There seems to be no reason why, in select bodies of men, like our army and navy, a similar result should not be achieved by proper vigilance, nor why even in the population at large, small-pox should not well nigh disappear from the bills of mortality.

It is at any rate cheering to reflect that the legislature is awakening to the duties which it has to discharge in reference to the sanitary condition of the community. Two important measures for the suppression of vice and the preservation of health have become law during the last session. They may both be considered in some degree tentative, and their results will form a valuable guide for any further efforts in the same direction. With respect to the first, I may observe, that to frame laws for the partial restraint of vice, is altogether a different thing from devising schemes for its toleration. In this respect, the recent Act differs from the system adopted in other countries, since, without licensing vice, it is content to acknowledge its existence, and to impose certain penalties on those who superadd physical to moral impurity. While this great social experiment is in progress for the protection

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the obscure problems of sanitary science. The sixth annual report, which has just been issued, is a document of rare interest, both to the public and the medical profession. It refers to vaccination, the distribution of disease in England, infantile mortality, and other questions.

of our soldiers and sailors, regulations of scarcely less importance have by another measure been enacted in our metropolis. The Act to which Lord Brougham referred in his opening address, has established an early closing movement of a different, but not less salutary character, than that which has been long agitated. Our old friend "the liberty of the subject" is no longer to be allowed night-long revels and unrestrained profligacy, but is compelled for his own and his neighbour's benefit to limit his excesses to one hour beyond midnight.

Looking, then, at the great advances already made, and the many efforts that we see originated around us, we may have good hope for the future. The time will assuredly come when the laws of health will be generally known and obeyed throughout the community. None of us are likely to reach that day, but we may hasten its coming for a future generation, and even now we may see it and rejoice. Already the average term of human life is increasing, year by year, in England and Wales, owing to better drainage, freer ventilation, a wider diffusion of the comforts of life, and greater moderation in the use of fermented liquors. Already the wisdom of John Wesley, that apostle of the last century, who said that cleanliness is next to godliness, has been practically accepted by the nation. Already the indissoluble connexion between physical and moral law is admitted by most thinking men. Nor is this kingdom the only part of Her Majesty's dominions in which sanitary science is being studied, and hygienic improvements carried out. Even in our Indian Empire, where the condition of nearly 200 millions of human beings has been too long a reproach to our rule, we can see the advent of a wise policy destined to elevate a population ignorant and abject to the benefits of Western civilisation. It must be a matter of congratulation to this Association that one of our members, and one who has taken a deep interest in our proceedings, is now guiding the destinies of India. Sir John Lawrence has paid much attention to sanitary investigations, and I understand that one of the last steps he took before sailing to the scene of his vice-regal labours was to obtain from the office of the Association the valuable papers of Miss Nightingale on health in India, and others bearing on the same subject. The circulation of that paper, which has just been reprinted by the Council, may have much effect on the sanitary condition of the native population, as well as of Europeans resident in the East, and it is gratifying to learn that exertions have already been made to improve the health of the presidential towns of Cal-

cutta and Bombay. More encouraging still is it to know that many of the natives are turning their attention to these questions, and that a society of native medical practitioners, having for its object, among others, the hygienic improvement of their country, has recently been formed in Bengal. England may thus be destined to spread a knowledge of sanitary science over the globe, to set an example to other peoples of obedience to the physical laws laid down by the Almighty, and, in the words of Milton's magnificent prose, "to lead the nations in the way of life." But whether England herself have the wisdom to walk in this way, and whether others follow or not therein, be assured that in the observance of these immutable principles the permanent prosperity of States is bound up. As the Scripture says, "God is not mocked," and His laws are not broken with impunity:—

> "The sword of Heaven is not in haste to strike,
> Nor yet doth linger."

Address

BY

EDWIN CHADWICK, C.B.

CORRESPONDING MEMBER OF THE INSTITUTE OF FRANCE.

ON ECONOMY AND TRADE.

AT this meeting in the vicinity of the most considerable manufactures in the Empire and in the world, we are compelled to give our most serious consideration to the chief social and economical questions which have arisen from the external civil war, that has shaken our gigantic system of cotton textile production almost to its foundation. To elucidate the economical principles which govern its progress and influence the condition of the people engaged in it, I beg to submit some facts derived chiefly from early examinations as a commissioner of inquiry charged with the preparation of the Bill, by which official inspection for the regulation of labour in the textile manufactures, and also the half-time system of labour and instruction for young children, were introduced.

At Calicut, at the extremity of India, from whence calico was first derived, a poor Hindoo spinster, with a primitive distaff spins, from cotton grown on the spot, in a day about a mile of thread, for which she earns twopence; or for the labour of spinning a pound, of the sort called forties, 19 miles in length, she earns three shillings. There, too, a poor Hindoo weaver goes from place to place, spreads in the open air, a loom of a more primitive construction than the sort depicted on the pyramids, in a space under a tree, for which he pays no rent, and weaves the yarn so spun into a web of cloth, at wages of little more than a handful of rice a day. From that same district, the Anglo-Saxon buys up the growth of raw cotton, conveys it, by expensive land transport on horseback, to a vessel, in which, perhaps, more than £20,000 have been invested, carries it a distance half round the world to a port whence it is conveyed by steam power to a manufactory containing machinery, the result of the genius of Watt,

Arkwright, Crompton, and others, in which perhaps £100,000 of capital have been invested,—in which there is steam power exceeding that of 3,500 men, impelling 150,000 spindles, delivering nearly 500 miles of thread a minute, or during the day, a length of thread that would wrap twelve times round the world. This machinery, which does the spinning, is attended to and fed and ministered to by about 1,000 servants—men, women, and children—at wages, on the average, to each of about ten times more a day than those of the Hindoo spinster. The yarn so spun is taken to be woven in an immense shed, comprising machinery, in which some £80,000 of capital is invested on a thousand power looms, attended to by men at 2*s.* 6*d.* a day; the web so wrought up is usually printed in another great establishment, where the genius of chemists has been brought to bear for its decoration, and it is carried back again to the extremity of India, and the labour of the poor Hindoo spinster, and also that of the poor, rentless, rateless, and taxless Hindoo weaver, is undersold, and though they work for the barest existence, their industry is superseded even with their own material taken from the spot. As illustrative of the progress of this manufacturing system, and with it the progressive reduction of manufacturers' profits on the piece, I have been told that there were persons recently living who saw a stockingless boy carrying milk in the town of Bury—saw that boy become a cotton printer by hand—then a great manufacturer by machinery—then a Member of Parliament, and a Baronet with a princely fortune—the father of a Prime Minister, and the founder of a house of Statesmen. On a late visit to Manchester, I was shown some cotton cloths, printed with dyes brought from India, of a pattern and sort printed by the first Sir Robert Peel, that were to be sent out to India, and sold there, cloth, printwork and all—at about half the price at which he had made his great fortune for printing alone. Nor, as respects India, is this success confined to inferior fabrics for common use. A lady, the wife of an eminent cotton manufacturer, went to him one day rejoicing, with a fine piece of muslin as the produce of India, which she had bought in town, and showing it to him, said, if he produced a fabric like that, he would really be doing something meritorious in textile art. He examined it, and found that it was the produce of his own looms near Manchester, made for the Indian market exclusively, bought there, and re-sold in England as rare Indian manufacture. In Manchester they can spin the yarn for that "woven wind," for a transparent cloth, such as is seen on the Pompeian pictures, and such as Indian princes prize for the

beauties of their Harems; and the rare industry of Mosul on the banks of the Tigris—the Mosullaine—will be overthrown. In the International Exhibition, there was thread spun by the Messrs. Holdsworth, a pound of which was 320 miles long. In 1860, Great Britain exported 240 millions of pounds of yarn and goods to India, and was fast becoming the clothier of its population. But wages there are rising under this industrial influence, and the natives would do better to betake themselves to the culture of cotton, of indigo, and of teas, for all which labour is in demand, than to compete with machinery in working up cloth for themselves. If revenue and protective duties were withdrawn, scarcely any foreign manufacture could withstand the British capital and machinery. Austrian and French manufacturers have told me that if they were free to invest their capital in manufacture, they would prefer to invest it, even in the district of restricted half-time child's work and the short time adult Lancashire labour. Pashas of Egypt have tried to manufacture the cotton grown on their own territory, and have been beaten. Even our American relations, with superior cotton on their own territory, can only defend themselves by tariffs against the superior productive power of Lancashire. The progress of our cotton production may be represented by the fact, that the cost of the pound of No. 40 yarn cotton included was in 1812, 2*s.* 6*d.*; in 1830, 1*s.* 2½*d.*; and in 1858, 11*d.*

Now it is to be observed, and the observation though an unpalatable one, is important to be made at the present time, that this great manufacturing improvement has been due mainly to successive periods of manufacturing distress. It was an axiom of the late Mr. John Kennedy, who was called the father of the cotton manufacture, that no manufacturing improvements were ever made except on "threadbare profits." When the trade is doing well, the axiom is, that they cannot be better than well, and they remain as they are. But when the market is overstocked, or when, from any other cause, there is no sale at the then prices, the manufacturer, whose machinery is unemployed, and large capital wasting, is in the position that it is better to go on even with serious loss, for a time, than have his machinery deteriorated by want of use, and his organised labourers, whom he may not get together again, dispersed by stoppage. In such crises his nerves are strained, as much as any officer's in a military command, and his mind is tasked, even with the aid of new divisions of labour, of brokers to buy his raw material, and of agents to have an outlook and sell his produce. Being under heavy penalties for every day he fails to find work and wages for his corps, he is

driven to his wit's end to exercise invention, and listens greedily to any which bids fair to cheapen production, lower prices, and stimulate consumption. A manufacturer loudly complains of distress, but he is not believed, because he is seen to be extending his works: really he is extending his works because he is distressed, for he is trying to spread establishment charges over a larger amount of production, and thus reduce its cost. The reduced prices, obtained by such improvements, including mechanical labour-saving improvements, stimulate consumption amongst a lower and more numerous grade of society, and place it on a wider and steadier basis; there is an improved demand, and restored net profits, on the wider sales at reduced profits; and a restored and increased demand for labour, and an advance in wages. Manufacturing distress, moreover, promotes the extension of foreign consumption. Stocks of goods being unsold and on hand, the manufacturer does not like to go about with "sacrifices," or throw them upon the depressed market at home. He has a young fellow, a son, or some one else whom he trusts, and he sends him abroad with a shipload of goods like a travelling packman—on a venture to most remote parts of the world, to get any produce in return for them: ivory, skins—anything that will sell at home, or anywhere else. The foreign purchaser of cotton prints, who has got these adornments at low prices, has a strong motive to get them on the backs of the natives, and once on them, there is admiration and a permanent demand for them, as there is now, not only in the remote parts of India, but in China, Egypt, Asia Minor, Greece, Turkey, Persia, Mexico, and the Brazils. By such successive adventures under pressures of distress, the consumption and production had been raised in 1860 to 76 millions, or six millions more than the gross revenue of the United Kingdom; of which the declared value of the exports was 52 millions. The wholesale dealers put 10 per cent. generally on the price of the manufactured article, and the retail dealers generally add to that 20 or 25 per cent., or, on the whole, some seven millions to the twenty-four millions paid for the cotton produce consumed at home. Of the price paid by the consumer of cotton goods, about one-tenth is generally the interest of capital and the average manufacturers' profits, one-sixth wages of the wage class, one-third the remuneration for distribution, and where the cloth is sold worked up into garments the total cost of distribution generally constitutes one-half of the sale price.

This great extent of production and of consumption could not have been attained, and sustained under difficulties, and

have prospered by the mechanical inventions and appliances, except in the hands of a population, whose power of patient steady work, especially the females, is by foreign workmasters admitted to be unsurpassed, if it be anywhere equalled. Herodotus relates that Darius, the great king, amongst the various races by whom he was surrounded, once observed a woman of one of them leading a horse from the water and carrying a vessel of water on her head, and at the same time plying a distaff as she went along. He was struck with this display of industry, and being told that it was characteristic of her tribe or race, he ordered that the people with such precious qualities should be removed for colonisation within his own dominions. The men as well as the women of these northern districts might have sprung from that race. As against them all other, the lowest paid labour that has been tried, that of the Hindoo and the Fellah of Egypt, even with British machinery and British taskmasters has everywhere hitherto failed.

But what has been the effect upon wages of the continued reduction of price of production, the consequence of the repeated pressures of distress? For a long time, it was maintained, and sometimes it is now maintained, and it is illustrative of the state of information that it should be so maintained, that the effect of these improvements has been continually to reduce wages. In some branches it really has been so, as in the instance of hand-loom weaving, which at first was a labour for the production of high priced goods for the supply of the few. At the beginning of the century, 1*s.* a pound was paid for the spinning of a pound of cotton yarn of shirtings, of number forties. In 1830 it was 7½*d.* Now the cost of spinning a pound of that same yarn, which the Hindoo spinster could only spin for 3*s.* by the distaff, is by machinery only 3*d.*, interest on capital, wear and tear of machinery, and the agency of the attendants called spinners—all included. But in the beginning of the century the wages divided amongst the workers engaged in a cotton spinning manufactory amounted only to 4*s.* 6*d.* per week per head:—now in periods of full work it is 10*s.* 6*d.** and 11*s.* per head, man, woman, and child—averaging 30*s.* per week amongst a family of three, or 40*s.* to a family of four!

* I believe this to be an under estimate. The Blackburn Relief Committee have made a recent report, in which they show that the earnings of 25,865 persons—men, women, and children—cotton workers, who were thrown out of work during the cotton famine, had averaged 11*s.* 5*d.* per week, and Blackburn is not a place noted for full wages. Added to these were 3,000 mechanics dependent on the cotton manufacture, whose wages had averaged 25*s.* per week.

—namely, for a man, at least 18*s.* 6*d.*; woman, 10*s.*; boy, 7*s.*; girl, 5*s.* The tendency of the pressure of hard times in the manufacturing districts has been, and is, to put more and more of machinery and capital under the superintendence of one person. But this is to require more and more of intelligence and trustworthiness, of discretion as well as skill. The machinery which has been under the care of two men at 18*s.* a week, is in hard times, for the sake of economy, put under the care of one; but this one must be a man of higher order of discretion and trustworthiness, and he must have wages which will give him an interest and responsibility in his work, and one at 25*s.* or 30*s.* is got, or double the actual money wages in the agricultural districts. This is a tendency in other branches of manufacture, and hence wages in various branches have been advanced, notwithstanding manufacturing distress, and indeed in consequence of it. Thus in 1842, the wages paid by Mr. Henry Ashworth for the production of 20 lbs. of yarn on 800 spindles were 4*s.* 7*d.*;—a spinner, or rather a superintendent of machines being employed, who earned 20*s.* per week. In 1859, however, 1,600 spindles were put under the care of one man, with a little extra assistance from boys, and only 3*s.* 11½*d.* is paid for the production of 20 lbs. of yarn, but his net earnings in full work, had attained to 30*s.* 10*d.* per week.

The sort of common cotton cloth for the weaving of a piece of which by hand thirty years ago five shillings was paid, is now woven by power for elevenpence; the hand-loom weaver then earning ten shillings a week; the power-loom weaver, or superintendent of the weaving of three power-looms, now earning sixteen shillings and seventeen shillings a week. Of late difficulties have been overcome at Manchester in the application of the power-loom to the weaving of various sorts of silk. Our interests are in the social and economical advancement of our neighbours, and there are great divisions of labour for the ample future occupation of the working classes of France as well as of England. I beg permission in passing to call the attention of my *confrères* of the Institute to the fact, that the manufacturers of Lyons and other places may be warned, that unless they make advances in the use of power, and improve the condition of wage classes by it, their hand-loom labour may be superseded, for the power-loom takes the same relative position to the hand-loom in silk that it does in cotton. Mons. Jules Simon observes, that heretofore the manual labourer has been an intelligent force, but by machinery he is converted into an intelligent director of force. In our most improved manufactures, however, the services of a few

are required as intelligent directors of force, and of the many rather as intelligent attendants upon it. If the French manufacturers adventure upon the new machinery and its contingencies, I must presume that they will have no difficulty in obtaining the intelligent services needed for it from amongst their own people, but they must adopt the machinery or give up the manual labour. Manchester awaits their determination!

The progress of machinical production and of wages, might be more strikingly illustrated in another field of industry, that of the lace making trade of Nottingham. In 1810, a lace making machine made a square yard of plain lace in two hours, and the finished yard was sold for five pounds. Recently the machine made a square yard of the same net in five minutes, and it was sold in 1856 at sixpence. Notwithstanding prohibitory tariffs, the effect of the Nottingham production on much of the poorly paid hand labour of Belgium was similar to that of the cotton yarn and cloth of Lancashire on the hand labour of the Hindoo spinster and the weaver. The wages for plain lace making have advanced from 20*s.* to 21*s.* per week for men, and from 12*s.* to 16*s.* for boys. For ornamental lace the wages are higher. For a long time English ladies re-smuggled back from the Continent lace that had been smuggled there from Nottingham. Roman Catholic priests in Belgium and elsewhere have adorned themselves with lace vestments, and have celebrated their rites before altars decorated with new gorgeous lace cloths, imagining them to have been wrought in nunneries, or by the faithful of the Roman Catholic flock; but the hand-labour of the poor pillow workers of that flock, toiling hard, at a rate of five meshes a minute, for poor wages, which rendered unnecessary the prohibition of the use of meat on the Friday, and made their whole lives a severe fast, was superseded by the Nottingham machine-made vestments, produced by the machine at the rate of a thousand meshes a minute, under the superintendence of men whose wages for fancy work were 50*s.* or even 60*s.* a week. Machinery now appears to stay at nothing done by hand, provided there be sufficient numbers required to pay for its construction and use. As relates to the effect of the latest new machinery on wages, I may mention that the wages generally earned by the sewing machine, I learn from manufacturers, are more than double the average previously earned by needlewomen.

In the great stricken branch of the cotton manufacture, the earnings of 440,000 persons, of whom 90 per cent. were adults, and 56 per cent. of the adults females, for attending

to the working of machinery impelled by steam-power equal to upwards of 2,000,000 of men, averaged about eleven millions and a-half of money a year. Viewing this extraordinary combination of mechanical art and science, and of labour in production—the greatest that has been seen, economists and eminent leaders of industry in the neighbourhood had long expressed serious alarm that such vast interests should be apparently so entirely dependent on one source of supply and on one fibre. I might quote the speeches of southern slaveholders or leaders in their war of secession, that so absolutely did the very existence of Great Britain appear to be dependent on the continuance of the supply from them, that they impudently relied upon it, for compelling the interference of England in their behalf, even for the maintenance and extension of slavery. Some of them went so far as to propose that the exportation of cotton should be prohibited, in order by starving the cotton manufacturing population to compel the acknowledgment of the Confederacy. As events have occurred, I believe it would have been well for England if every pound of the store of cotton in the possession of the Confederates had been at once burned, in order that exertions for the development of supplies from new sources might not have been weakened and delayed as they were, and are yet, by the apprehension that by peace or the fortune of war, the large amount of cotton hoarded up might at any time be let loose upon the market to the ruin of investments in new and necessarily more expensive sources of supply.

I have indicated some of the leading economical facts influencing production, distribution, and the progress of wages for the past, to see what economical and social lessons may be deduced from them for the future. It is to be observed, however, that the character of the distress brought about by the American civil war, differs from all preceding causes of considerable manufacturing distress in this, that whereas they, as I have described, tended, by reducing prices to extend consumption, this privation of more than eleven-thirteenths of the supply of the raw material, so enhanced its cost as vastly to raise the price of the manufactured material, and throw back manufacturing progress in that respect by half a century. Had not the use of the article been widely and strongly fixed in the habits of the consumers, the effect must have been extensively and permanently destructive. As the supply now stands, from all sources, it may be said to be at present about thirty-two against forty-seven of the supply in 1860, and in price 28½*d.* against 3½*d.* per lb. in 1860. It is estimated that less than two-thirds of the previous number of

workers are now engaged in the manufacture, the rest having migrated, or changed into other service, or emigrated. To those now employed, wages are nominally at the same rate, but really considerably less, in consequence, as stated, of the increased difficulty of working the Surat and other inferior cottons, and also from their being employed at short time.

The first effect of the present distress will, however, seemingly be to diminish future danger, by relieving the manufacture of the present extent of dependence on one source. The delay of a renewal of the American supply is now regarded complacently by many, as having, at all events, a compensation in allowing more time for the training of labourers and the organisation of the new cultures in other countries, which a sudden cessation of the civil war, and the liberation of the embargoed stores of cotton in the Confederate States, might check or destroy. If, however, the event of the civil war should be, what many are unwilling to believe, the destruction of the institution of slavery, from information on which I myself rely, as to the effects of the conversion of slaves into free labourers, working for wages, and at piece-work, and from the additional produce already achieved by coloured free labour on the estates formerly cultivated by slave labour, a considerable augmentation of the produce of raw cotton may be anticipated from thence, in two or three years' time. The cotton cultivation of India, or the rude labour of other places, will not, it is generally believed, withstand the culture of America, especially the free culture, the promise of which free cultivated cotton farms appear to justify. To what extent the culture may elsewhere be improved in quality, and increased in quantity, time only will show.

Inquiries which I have myself made into the domestic condition of the wage classes of our own population, lead me to the conclusion that they are even now very imperfectly clad, and that the consumption of cotton amongst them is not above two-fifths of what perhaps it would be, if all were as fully provided as are some few, who are frugal and good managers. Large classes of people have only two shirts, one off and one on. Not half, perhaps, of the children or of the adults throughout the country have stockings. Before the "cotton famine" the supply of wool did not keep up to the increasing demand for woollen clothing. There are yet greater deficiencies in the clothing of the wage classes of other countries. No doubt popular clothing admits of great improvement in the qualities of warmth preserving, combined

with lightness, cleanliness, and wear; and constant changes may be expected in the adaptation of fibres for these purposes, as well as for decoration, and for all other purposes. But our steam power and machinery and capital will probably keep us in a foremost position for clothing the masses of the people of the world. We may conclude, therefore, that not only will the hands which have migrated or changed to other temporary occupations be required again, but that a large and increasing number of hands must be sought to superintend the action of a vastly increased amount of steam power, and new machinery for textile production. Looking at the present as well as the past condition of the wage classes * of the manufacturing population; looking at the great physical evils attendant upon its present condition, of which the excessive sickness and death-rates are exponents; looking at the excessive moral evils of debauchery and unthrift which have accompanied it, of which the statistics of pauperism, as well as penal statistics, are also exponents,—there is good ground for the opinion of reflecting men that the manufacturing system, or this portion of it, has come upon the country too fast, that is to say, before the population was prepared by education and social progress for its good management, or the satisfactory application of the increasing produce of the manufacture in wages. It is just, however, to observe that the social effects deplored are not peculiar to the textile manufactures or to this one branch of them. In other branches, wheresoever there have been large aggregations of men for new manufactures, or large new works—assemblages of navvies for example—without order or preparation as to their domestic conditions and relations; high wages, and especially high and greatly fluctuating wages, are equivalent to an excess of drink. Nor are the evils peculiar to our own manufacturing populations. They have attended the extension of all the textile manufactures of France. They have been the subject of able and anxious examination by eminent men

* I object to the term "working classes," as involving mischievous fallacies and prejudices. "Manual labourers" is also objectionable, for manual labour, even the lowest, if properly performed, involves a greater or less proportion of mental labour. "Mental labourers" is objectionable too, for the occupations so designated involve manual labour, commonly with the pen, or severe bodily constraint, often worse than active bodily labour. The noble President of the Association is a "working man," who would have outworked several of the working men properly so called. An industrial leader, the head master of a manufactory, is often really the hardest working man in it. It appears to me, that the term wage classes is free from the objections stated, and others, and that it denotes really the leading characteristic distinctions.

from the other two of his relations who were in full work; if not in money, in a share of their meals. But for such family and friendly assistance, and the assistance from friends amongst fellow-workmen, the public pressure of the late famine would have been far more severe. I learn from the continent that the shock has fallen there heavily or lightly in proportion as there has been a mixture of employments. The lesson taught, as to the distribution of members of the same family in different occupations, is in accordance with the common household proverb, "Not to have all your eggs in one basket." The expediency of this recommendation is disputed in the interests of manufacture; and there certainly are economical advantages in the aggregation of establishments of the same sort; but if that aggregation be maintained, those interested in it should be called upon to provide against its dangers and evils, or at least to promote actively the measures necessary to avert them. One of these evils is the long-continued congestion of unemployed labourers, on occasions of manufacturing depression. Early training and education, and the development of the intelligence and capacities for ready changes of employment, is one means of reducing these congestions.

Few who have not had experience in the administration of relief to the destitute in periods of wide distress can be fully sensible of the difference in amount of trouble and chargeability to the rate-payers, between educated and intelligent, and uneducated and unintelligent, people of the wage class—the heavy lumpishness of the uneducated, their abject prostration, their liability to misconception, and to wild passion, their frequent moroseness and intractability, and the difficulty of teaching them, as compared with the self-help of the better educated, who can write and inquire for themselves, and find out for themselves new outlets and sources of productive employment which no one else can find out for them, and who can read for themselves, and act upon written or printed instructions. The really well-trained, educated, and intelligent, are the best to bear distress; they are the last to come upon charitable relief lists, and the first to leave them. They are most easily helped. I remember when we promoted the migration of the surplus southern agricultural labourers to the north, that there were villagers in places who had heard of America and were willing to go there, but had not heard of Lancashire, and could not be got to move there even on the promise of largely increased wages, until they had sent one of their own people to see what sort of people they were in Lancashire, and return and inform them. The

uneducated workmen in Lancashire are more intelligent, but, if we are to believe a story told of some of them, they have been led to America by a recruiting song, the chorus of which was—

> "And we will drink at every ale-house that we do come nigh,
> Until that we get to the North Ameriki."

Instead of being kept crowded, as the adult workers recently were, in schools, to remedy the gross defects of elementary education, to teach them reading, and to keep them from hanging about the streets exposed to disorder, they would if they had already been properly educated have been abroad seeking occupations for themselves, for which their elementary education might qualify them. On a former occasion some got engaged in the police force, for which reading and writing are necessary. One operative who could read and write well, left his fustian jacket at home, put on his best Sunday clothes and went about to inquire for a shopman's place, or a clerk's place, which he succeeded in getting, and did well in. A great deal of the good conduct of the operatives has been owing to the extent to which elementary education in and the partial application of the factory half-school time system, has leavened the mass of workpeople; difficulties and disturbances have arisen entirely with the ill-educated.

When I talk of education, I presume an acquaintance with the different sorts of it, from the positively worthless to the better qualities in which the results, practical, moral, and physical, in combination with proper training, are proved to be most satisfactory:—from the inferior education in which, I have elsewhere shown, not one in three turn out well, to the superior training, in which there are not more than two per cent. of failures. The general and complete compulsory application of the half time principle of school teaching by good teachers, combined with early physical training, may be urged as a means of obviating future prolonged chargeability, from manufacturing changes and reverses such as those of the past. I add physical training, because to enable a manual labourer to turn his hand to anything easily, he should be early trained physically to turn his fingers as well as his hands to any work. The future of the wage classes will lie in large manufacturing processes, in which there must be action in concert; for this the military drill has great value by imparting habits of order, prompt attention, and exact obedience to command. Systematised physical training imparts aptitude for every sort of manual occupation. It is now

proved that by it, three persons may be fitted to be as effective in ordinary labour as five who are untrained; an economy of force which is of peculiar importance in itself, most especially to these districts, to meet an impending serious scarcity of labour.

Another course for the prompt and salutary reduction of congestions of labour is the removal of such barriers to the circulation of labour, as those created by the law and practice of apprenticeship, in its arbitrary requirement of a seven years' bondage—for it is a slave labour condition, that is, labour without immediate interest in the work, and at the command of another — inducing slavish and slow habits of work in prolonging for years the learning of processes which might be learned in a few months. Of the benefits of the abolition of any fixed or arbitrary contracts of apprenticeship the cotton manufacture is an example.

The first Sir Robert Peel rendered an important indirect service to the cotton manufacture by freeing it from the clog of apprenticeship. The first manufacturers provided themselves with children from the parishes, many of them from the metropolis. Their labour being of the quality of slave labour, *i.e.*, labour without a sufficiently direct interest in the result—coercion by the whip, which might then legally be used, was resorted to, and great cruelties were committed. To prevent these cruelties he got an Act passed to regulate the labour of young persons engaged as apprentices in factories. To avoid the inconveniences of these regulations, manufacturers ceased to take apprentices, and found out that they could get children taught their work in months, or even in weeks, and that they did far better by the direct employment of young persons for wages at piece work immediately proportioned to their increasing skill, than had been done under the system of the old seven years' apprenticeship. It is scarcely conceivable how the manufacture could now be carried on under such an extent of slave labour conditions as the seven years' apprenticeship imposes. The effect of it must have been to increase the expense of production, to diminish consumption, and to lower wages. Freedom to enter occupations is as important as freedom to leave them, for the relief of stagnant and overburthened labour markets. There is now the less pretext for the maintenance of the barriers of long periods of apprenticeship in manufacturing processes, that the increasing sub-division of mechanical and all other sorts of occupations greatly reduces the time required for teaching or learning them. In the old and primitive conditions of the trade of a carpenter, when the

carpenter was called upon to work upon the widest range of objects, from the making of a gate post to the construction of a geometrical staircase, there was a specious ground for requiring a long period for qualifying him for admission to the guild or the craft and mystery of the trade. But now, when a man is often employed in a large town for his whole life, in nothing else but making one sort of object, a door or a window, or flooring boards—and those now by machinery—there is not even seeming justification for the maintenance of the barbarous trades' union protectionism, and barriers to the free circulation of labour. These barriers, for the keeping out of in-comers, keep in those who would be out-goers; and keep them in as redundant hands who have to be maintained out of the trade funds; and hence wages are really, though not nominally, reduced. Instances of the best real progress in wages may be cited from branches of service which are the most free from such a bond, especially in the highest waged districts of North America. I have had heretofore enough to do officially with parish apprenticeships in poor law administration, to be aware that such contracts of service are generally as injurious in practice, as they are vicious in principle. Next to free trade in commodities, perfect free trade in service is of importance to the masses and to the prosperity of the country.

Formerly, as well as recently, foreign manufacturing populations have been subjected to calamities as severe as that to which the operatives of our cotton manufacture have recently been subjected. One instance is so important that I must refer to it. In this country, on the occurrence of the cotton famine, the chief instructional resource was to send the uneducated adult males into schools for book instruction; afterwards, at the suggestion of Mr. Rawlinson, the sanitary engineer, they were taught the use of the spade and set to work on town drainage and other improvements, in which they have proved themselves most apt scholars. In some three months they have not only become good field drainers, but good town drainers, and have learned good artisans' work, and entitled themselves to fair artisans' wages.*

In Flanders, the industry of 250,000 hand-loom weavers

* The fact may, by the way, be commended to the notice of His Royal Highness the Commander-in-Chief, and to the present Secretary of War, on the question of the beneficial occupation of soldiers in time of peace. A notable example of change of occupation was presented at the Royal Dockyards, where ship carpenters became in a few months as good workers in iron for iron ships as regular smiths.

and hand spinners was absolutely destroyed by the competition, chiefly of the English power looms and machine spinning in 1846. At the same time the potato disease destroyed their chief food. The Belgian Government then, at the instance of the Prime Minister, Monsieur Rogier, and with the concurrence of the local authorities, boldly set up schools throughout the country for teaching them new textile processes, embroidery, open muslin work, glove making, artificial flower making, and various new textile arts in silk, linen, and in cotton, and succeeded completely. Workmasters were collected for teaching the new occupations, which, by means of such instruction, were profitably, firmly, and permanently implanted in several cities. The Government did not undertake to manufacture on its own account, and undertook only to aid with loans of capital, and left the rest to contractors, giving only by its officers a general superintendence over the action of the new institution. Elementary book instruction was given on our half-time principle (except that the book instruction, instead of occupying three hours, was accomplished in two hours a day), in the same buildings as the industrial instruction. This combination of mental and bodily, or industrial instruction, was highly prized. When the great body of the displaced workpeople had by this course of industrial teaching been replaced with productive occupations, and the crisis was over, the Government was disposed to regard these industrial schools as temporary, and to discontinue them; but there was so strong and general a local opposition to their discontinuance, in eighty-two or three out of eighty-five communes, that the Government has been compelled to continue them as permanent institutions, not at present for introducing new occupations, but for teaching old ones; and training neglected children of the ragged school class into habits of productive industry. The teaching of the trades, or of the arts, by trained teachers, is far superior to the teaching on the old method of apprenticeship by the master, who is otherwise occupied, and is commonly deficient in teaching skill, and does not know the principles of his art himself. The teaching, besides being better and cheaper, is vastly quicker in combination with the short-time book instruction. I am informed by M. Gare, the Belgian Government Inspector, that the average expense of the instruction given does not exceed 50*f.* or £2 per scholar; the period varies of course with the occupation, from a few weeks to a few months. He finds that to make a complete workman, reading, writing, and arithmetic are necessary. In the schools of industry as

now carried on, a large proportion of the instruction is in the arts of design. The experience of the teaching elementary drawing in the half-time schools in England, where it has been introduced, is that as an instruction to the hand and eye, and an adaptation to manual work of all sorts, it is next in importance to teaching writing. The expense of imparting this industrial qualification does not exceed £1 per head. Important examples of relief by change of the occupation, have been presented, though late and less systematically, in the case of the unemployed ribbon weavers of Coventry, where, I am informed by the mayor, many of them have gone to alpaca weaving, elastic web weaving, and other new kinds of manufactures. If the unemployed gain new permanent employment better than their old one, it is, of course, better for them, but it is also better for the public at large. If, however, they return to their old employment, as many in the cotton districts may be expected to do, and by which under conditions to which I shall hereafter advert most of them will do better for themselves than by emigration, the congestion of labour will have been most healthily relieved for the public. To the extent to which new hands are required for the renewal of old work, opportunities will be given for the application of improved physical and mental training; with the powers and advantages of which, those interested in these districts have yet to make themselves acquainted. Stagnation of labour and service, congestion of labour, idle waiting, pauperism—is disease. The ready conversion and quick circulation of labour is a healthy condition of the body politic, which it is requisite to sustain actively.

It is not my purpose to enter on the subject of the administration of poor-law relief, nor into the contraventions of sound principles of administration which have occurred. I will confine myself to the passing observation, that the common policy of employers in keeping together stocks of hands unemployed, or only in makeshift and unremunerative occupations for long periods of time, generally proves as erroneous on the part of the employers themselves, as it is unjustifiable as respects the ratepayers of other classes, at whose expense it is done. My immediate object is to direct attention to measures which are preventive of the need of poor-law or charitable relief.

Whilst great strides have been made in reducing the cost of manufacturing production, comparatively slow progress has been made in the cost of distribution, either of manufacturing products or of goods. The interests of producers are stronger than they have yet been aware of, in reducing the cost of

distribution to the lowest; as extending consumption, as increasing demand—and with it wages as well as profits—and steadying both. I have not time to advert to the effects of the high cost of the retail distribution of the textile fabrics. But of late there have been reductions in the cost of the distribution of foods, some of the most important, by the wage classes themselves, which are fraught with important lessons as to the practicability and advantage of avoiding the credit system of purchases. It was found that the expense of the retail distribution of flour to domestic consumers was very great; and at Rochdale, and other places, co-operative associations—which were, in fact, joint-stock companies,* —were formed to reduce that expense. By getting at once a large body of consumers for ready money, and by reducing establishment charges, they did, in fact, reduce the cost from some 25 to about 5 per cent. to the consumers. The effect of setting up one co-operative store in Leeds, was to dispense with the services and the expense of some forty sets of retail distributors, or to occasion the shutting up of some forty small retail shops, with forty separate rents, rates and taxes, and credits, by economising and concentrating the labour of distribution in one, and that one for ready money payments. At Halifax 5,000 shareholders or customers have been got together, as we are told, by one association. In Glasgow and Manchester, and elsewhere, manufacturers, by individual enterprise, have effected the distribution of food to the wage-classes, ready cooked, in the establishments well known as workmen's dining-rooms, in which 500 or 1,000 workpeople dine daily, at one establishment; who, I was told, at Manchester, had previously been accustomed to dine at small dining-rooms, where not more than twenty or thirty dined at each place daily. In this instance, as in the case of the co-operative distribution of the uncooked food, the saving was in the reduction of the expenses of the numerous separate small dining

* The new cotton factories which have been called co-operative, and which, under that name, have brought together large numbers of shareholders of the wage classes, are all now in reality common joint-stock companies, with limited liability. The so-called co-operative shareholders in the leading establishments, decided, as I am informed, by large majorities, that the workers should only be paid wages in the ordinary manner, and should not divide profits. The wages being for piece work, it was held that the payment was in accordance with communistic principle, "each according to his capacity, each according to his work." The common spinner had had no share in the work of the general direction, nor had he evinced any of the capacity of thrift or foresight of the capitalist, and why should he share profits as if he had? The wage class, in their capacity of shareholders, decided that it was an unjust claim upon their profits, and kept them undivided to themselves.

establishments by one large one.* Several individual manufacturers, however, have munificently fed their own work-people, on food purchased for cash, at wholesale prices. From some accounts of the cost of the food so purchased, as also of the previous usual expenditure of the same work-people, the following most important results, displaying the operation of their improvident credit system, were manifested, namely:—that a given amount of money spent, 1st, as the wage-classes are accustomed to spend it, by purchases on credit at small retail shops, will produce one and a-half day's subsistence; 2ndly, spent at retail shops for ready money, the same amount will produce two days' subsistence; 3rdly, spent on food purchased wholesale for cash, it will produce nearly three days' subsistence. The prime cost of the four-pound loaf baked on a large scale was 4*d.*, at the time the wage-classes were charged 7*d.* and 7½*d.* for the four-pound loaf at the shops; but the loaf produced wholesale was, from its better quality, worth at the least a halfpenny more—and so with the other foods. I have no doubt, speaking generally, that by improvements in saving labour, and losses from the credit system in distribution, full two and a half day's subsistence may be obtained, at the expense which now gives only one and a half day's food for the same money. Strong labouring men who take the whole of their food, breakfast, dinner, and tea or supper there, get as much as satisfies them for 7½*d.* a day, on the average. Call it 5*s.* a week, for a minimum of food for a bare subsistence, or nearly double the amount reported to be expended by agricultural labourers; and in some public institutions where a high degree of health and strength is maintained, the cost is much less. Add to this 2*s.* for lodging, and 2*s.* for washing and clothes, or say 10*s.* a week

* The first observation naturally made upon this statement is, But what will become of the displaced small shopkeepers? to which my answer is, that the results to be anticipated are like those which have followed improvements in machinery. Labour saved, is to be taken as equivalent to capital created, and thence an increased demand for labour. The whole history of Lancashire during the last half century has been one of the extension of labour-saving machines, and, at the same time, of a demand for labour, with a continued augmentation of the population, and an augmentation of the rates of wages. It once certainly appeared to me *à priori* that some very special provision of poor law relief ought to be made for those able-bodied men whose labour had been superseded, and who had been thrown out of work by the introduction of new machinery. Anticipating disastrous results to classes of men, I made inquiry as to the effects of some large displacements of labour, by such means. I found, that after a little time, the people displaced were, as a *class*, with fewer individual exceptions than could have been anticipated, as well off as before, or even better; and, that, as related to such *classes*, the best course was to do nothing.

for the bare necessities, and hence we find that by improvements in distribution how much wider a margin is gained than heretofore, for extra comforts and reserves for insurance, to a factory labourer, who earns 18*s.*, 20*s.* or 25*s.* or more a week.

The wage classes of the cotton manufacture, have, it is said, borne their privations nobly, and I would be far from detracting from their praise; for I well know to how many unfavourable circumstances they have been subjected. But it must be said that if all of them had done what some of them have done; if most of them had not, by neglect, been deprived of the benefits of an education and training of a proper quality, suitable to females as well as to males; and if our recommendations, and the provisions of the Factory Act, had been duly complied with; they would have had far less of those privations to bear at the expense of others, as well as of themselves. In some of the largest of the schools specially established for the instruction of the unemployed workpeople, it was found that more than 75 per cent. of them were unable to read. Not having the faculty to make the most simple calculation, wages and the domestic means are wasted by the credit system; 80 per cent. of these females were found to have no knowledge of any sewing, such as is taught in elementary schools. Some of them "When they first took a needle into their hands, pushed it through their work by pressing it upon the table." "I," says Mr. Redgrave, "saw a mother—who, until she attended a sewing class never used a needle—making a frock for her sixth child." Having no knowledge how to mend clothes, they and their children were in rags. Families trooped into the relief rooms in the most abject condition, whose previous aggregate wages exceeded the income of many curates, as had many of the individual workmen. On the occurrence of absolute destitution, it is the rule of the new poor-law, as well as of common humanity, to regard solely the fact of the destitution, without reference to its cause, for the purpose of relief. But it is now proper to look to the past for the sake of the future, and ask whether serious perturbations of the trade shall entail the like destitution and misery and chargeability *ab extra* for its relief, however high above the average of other districts the future wages may be. It is to be borne in mind, that the past wages have been at the least one-third higher than in the rural districts, and that the average age of death of the operatives in the manufacturing districts, is fully one-third lower. The estimated wages of the 440,000 cotton operatives being in the aggregate 11 millions and a half,—the re-

serves might on the standard of agricultural expenditure, have been, for one year, for the cotton workers alone, or from year to year, double the amount raised by external charity; nearly as much as the four millions of the deposits of the county savings' banks for many years up to the present time, when they amount only to 31*s.*, whilst in the county of Devon, they are 60*s.* per head of the population. The investments in building clubs and in other directions are no doubt greater in Lancashire, but so far as appears, not commensurate with the difference of the wages in the two districts. One source of the difference is the manifest difference in the rates of expenditure for drinks, and the statistics of drunkenness point to this as a source of the evil against which it behoves all social economists to lend their best exertions; namely, the conditions in which high wages mean only excess in drink. It must be said that in the last famine year there was in Rochdale, Preston, and some other places, a reduction of the evil; but that in Manchester, and other places, there was an increase of it;—that in the famine year nearly 28,000 persons were proceeded against in the whole county for being drunk and disorderly, and that the proportion of offenders was more than double the number of all England and Wales, and five times the number of the county of Devon.* Crime of all sorts follows excess in drinking, and in Lancashire it bears the same relation to the crime in Devonshire as it does to its drunkenness. Educationists regret that the persons of the wage class who give the best attention to the education of their children, and who pay for their schooling the most regularly, are not those of the highest, but those of a medium amount of wages. I have been informed of one man in the vicinity of Manchester, a retailer of coals, who refused to give credit to any man who earned more than 24*s.* per week, because he found from experience that if he did so, he never got paid.

One example of the abatement of the great evil, presented by the Report of M. Reybaud, to the Academy of Moral and Political Sciences in the Institute of France, appears to me to

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* These returns do not distinguish the occupations of the offenders, and there is no reason for believing that they belong peculiarly to the cotton workers. Mr. Arthur Arnold, in his very able history of the cotton famine, referring to the extraordinary rise in health of the unemployed, observes, "It was well said by the sexton of one of the most important towns in Lancashire, when asked how it happened that his lugubrious trade was unusually inactive during the summer of the present year. "Well thae sees," he answered, "poverty seldom dees. There's far more kilt wi' o'er heytin' and o'er drinkin' nor there is wi' bein' pinched"—a truth which contains a moral lesson valuable to all classes.

be so important, that it was a strong motive to me to accept the honour of the position now entrusted to me, that I might have an opportunity of calling public attention to it in England.

"For the first time in my travels," says M. Reybaud, "in the town of Sedan, which is an ancient seat of woollen manufacture, I have met with a working population from which habitual drunkenness has been expelled. The chief honour of this achievement is due to the head manufacturers. By an agreement amongst themselves, which ought to be held forth as an example to others in their position, they have shut the doors of their establishments against all workmen given to excess in drink, or who by open and notorious drunkenness signalised themselves for that exclusion. The fight with the vice has been long, and possibly with another population the victory might not have been with sobriety. But at Sedan there has been a complete success. Beginning with the least hardened of the drunkards, it has ended by reforming or shutting out the most obdurate of them. Towards those workmen who, with the best intentions to mend, now and then gave way, some indulgence was at first extended. They were allowed the benefit of continued amendment, and provided it was notorious that there was amendment, and that their offences became less serious as well as less frequent, their presence in the workshops was tolerated; the conditions of their employment being that they made a sincere confession, or that the wife, the party most deeply interested, came and asked pardon for her husband's offence. Amongst other examples of the sort of conflicts which arose, I received the following—that of Father Joseph. Father Joseph was a fuller, an old workman above sixty, when this revolution took place. It attacked him in his most deep-rooted habits and tastes. Working with his feet in water all day, continually wet in the process, he had contracted a horror of water, and at night, when his work was done, he withstood its effects by what he considered the most powerful antidotes. He was an excellent workman, who had many good qualities to set against his one default, for he preferred to drink at home rather than at the cabaret, and at night, when his children were in bed or away, to avoid as much as possible setting them a bad example. His employer took pity on him. To discharge him after his long services seemed an act of barbarity. Nevertheless an agreement had been made by all the manufacturers which must be kept to, which allowed of no exception. The employer sent for the old workman and paid him his wages. Joseph took high ground, declared that this was an attack upon his liberty, that he would sooner be discharged from his work than have his drink interfered with, and that he would take a double quantity that very night to vindicate his independence. After the first storm of anger, reflection and a calm ensued. The word of Father Joseph was as good as his deed. After long objections and debates, and with deep sighs on his part,

the employer got him to agree that, for one whole year to begin with, he would only get drunk on Sundays and Saint's days. The workman reserved to himself the right to drink as he pleased on those days, and it is to be feared that it did please him to take extra doses to compensate himself for his privations during the rest of the week. The year passed, and Joseph had again to appear before his employer, to meet a fresh attack upon his habits. Now, the condition was to be, that for the next year he was only free to get drunk one Sunday in the month. There was a renewed rebellion, renewed debates, followed by renewed submission. The second year passed and the fatal term for the entire discontinuance of the habit arrived. It was now put to him that he must cease to get drunk entirely, or cease to work at his old shop. The remembrance remains of the valiant resistance made by Father Joseph when driven to this last ditch. It was, he said, an attack upon his health; they would deprive him of a tonic, and prevent him taking that care of himself which only a man could take who knew his own temperament. Good workman as he was, notwithstanding his age, he was becoming one of the softest in the shop. No one would gain by that, his employers any more than he. Why not let him continue to live as he had lived? As his work did not suffer from it, why mind an occasional whip up? The habit was reduced to the fairest limits, and he positively had nothing more to concede to these exactions—and so on. During an hour's discussion, Joseph held his ground determinately against the most benevolent persuasions. Then his resistance slackened, and he was about giving way, when a scruple of conscience seized him. Each trade in those districts has its own patron saint, and the woollen workers have perhaps the most accommodating on the calendar. At the decisive moment an idea occurred to Joseph, who set up a cry of distress and of determined resistance. 'Why, you will at least leave me the annual festival of my patron saint?' he exclaimed resolutely to his employers. The employer in his turn gave way, and to secure a complete conversion, the privilege of the annual saint's day was finally yielded to Joseph.

"I cite this anecdote," says M. Reybaud, "because it well displays the manners of the country,—on the side of the workmen, a fidelity to their engagements, even where the acts elude control; an open defence of what they do, instead of underhand evasions; an honest maintenance of what might easily pervert the conscience; on the side of the masters, firmness tempered by indulgence, a determination to abide by an agreement amongst themselves, to do what was good for the workmen with or without their consent; to protect them and their families against vices by which the manual labour of the workshop is not visibly or seriously affected.

"To be convinced of the great results obtained however by the course taken by the employers, it is only necessary to pass in the evening through those parts of Sedan which are thronged by workpeople. You now hear no disturbances, no outcries; you see no

drunkenness except it be amongst the soldiers of the garrison, and you see no open shameless prostitutes. The few cabarets that you meet with are without the glaring exterior displays and provocatives which you may observe in such places elsewhere. They are modest, and seem even careful not to attract attention. Their customers glide in and do not display themselves in front, and the doors, which are carefully shut, conceal what goes on within. If there be debauchery—and there is yet everywhere—it is no longer scandalous and offensive to the public eye. To display it would be to expose it to denunciation as against the rule of the workshop. With all this, there is nothing which has the aspect of constraint; the state of things is conformable to the predominant social sentiment. Temperance has entered into the tastes and habits of the population, and owing to the benefit experienced from it, prevails without constant effort. The wives of the workmen have not been indeed backward in giving support to the movement which so directly affected them, for it put into their hands an arm and a power which they did not neglect to use; for they had much to gain by it;—domestic comfort, a less stormy household, better examples for their children, in a word a home freed from a train of brutalising influences. Hence the exterior tranquillity of the town corresponds with the domestic calm, of which it was but the sign and the fruit. Without the services of a single extra policeman, solely by the effect of more sober habits, the streets of these lower quarters are freed from habitual disorder. The altercations, the assaults, the fights, the crimes which drunkenness multiplies have disappeared amidst the applause of the city and the home. I urge this," he says, "as a great example which bears upon the source of the greatest calamities to which our workpeople are subject, but which, while it is everywhere deplored, has hitherto been nowhere seriously combated by the influential classes above them. Nearly always when action against it is thought of, recourse is had to the law for means of repression by punishment, or by an authoritative police surveillance over the sources of disorder. Nothing is more convenient, but at the same time more ineffectual. It is only by individual effort wisely and firmly directed, that the evil can be abated, as much as it appears to me to be possible to abate it. Here is a city where the leaders of industry have by a rare exception brought themselves to understand each other and act in common; to forget for the time the trade interests by which they are divided, for the sake of a superior interest, a real reform of the vicious habits of the population, on which they have been united. Drunkenness is forbidden, drunkards are excluded from all the great workshops. Why cannot the manufacturers in other cities follow the example? Why cannot they undertake a campaign against habitual drunkenness, such as that which has succeeded at Sedan?

"It is a distinction for Sedan to have acted, while other manufacturing cities have done nothing against the evil. But all that has been done for morals, has not been without profit to the manufacturers; it is well to say to those who are so absorbed by a

seemingly direct and manifest money interest, that the workmen who have become more temperate have become more punctual and trustworthy too, and the moral victory has proved to be a good money calculation."

The courses of action above described are of great importance, for the repression of excess in habits already formed in adult workmen, but other tried measures are also available for the prevention of such habits in the rising generation of workmen who will be in demand for the new labour, and to take the place of the adults who are going. Many of the old mills with old machinery that are now shut up, will not, I am told, be opened again; new mills with new machinery will be opened in their place. They will, therefore, afford opportunities for better economic and social starts, which it is important to consider.

In the first place, these new mills will present a most important example of a large sanitary improvement in places of work evolved by the latest and continuing improvement in production. Under the stimulus of the latest pressure of manufacturing distress, it is found that, as compared with the average machinery of the previous eight or ten years, there may be a saving of ten per cent. in the number of the hands, or between forty and fifty thousand of the late number engaged, if from the reduced price of production there were not an increased demand for produce and labour, which would reabsorb them under the new conditions. The quantity of produce that may be turned off by the machinery under the superintendence of each hand will, by these improvements, be augmented from ten to twenty per cent. per head. To save the expense of construction the roofs of the old mills were commonly made as low as possible, and the crowded rooms are often as difficult to ventilate as the between decks of ships even when the port-holes are opened; but the windows of factories must be kept shut for the sake of the spinning temperature. Hence there is a foul atmosphere for the hands, and an eventual waste of their force. But now, to reduce the expense of labour by reducing the number of the labourers, by extending still further the machinery under one superintendence, the machines must be widened, and the rooms to contain them must be widened too; and the rooms being widened, it is found necessary to elevate the roofs, to obtain the requisite light from the sides to the centres.

An eminent manufacturer writes to me:—"My present mills are 40 and 45 feet wide, with rooms only from 9 feet to 9 feet 6 inches high. The rooms of my new mills are to

be 100 to 120 feet wide, and 14 and 15 feet high." The increased purity of the air, the greatly increased cubic space, and also the increased supply of solar light, will be an immense gain to future workers, who, by a better application of steam power in these new mills, will moreover be relieved of four-fifths of their present amount of physical toil, and be advanced as intelligent directors of the force of a greater quantity of machinery.

These new mills will afford opportunities for new starts, in the economy of the force of the wage classes, by improved habitations. This may be best done when habitations on improved plans are constructed on a large scale, with the advantage of repetitions of parts, for which the large numbers of hands required will afford opportunities.

The workpeople in existing manufactories may be described as industrial regiments; but the larger manufactories demanded by manufacturing and mining will require workpeople in numbers equal to divisions of large armies, of which the leaders of the industry are generals, and the partners or overlookers colonels and officers. One company of machine workers at Oldham has 4,000 men and boys, amongst whom it is stated that £5,000 a week in wages are usually divided.

For the service of the old cotton factories, the workpeople have been brought upon towns, much as regiments would be brought there, if they were without any provision of quarters, and if every soldier was left to provide for himself, anywhere and anyhow; with only the condition of making his appearance at the roll-call, the commandant being meanwhile anxiously occupied in foraging about to raise money for their pay. Men, women, and children, are brought together without any due provision of proper homes or schools. These industrial regiments and brigades have been led into over-crowded fever nests, and then told to find medical service how they can for the alleviation of disease and suffering. At the outset of the cotton and other manufactures, those who began them were generally poor, often themselves of the wage classes, and had quite enough to do to raise capital for their works and to keep them going. They got work-people together how they could. How they were huddled together, in what dwellings, how the wages were spent or mis-spent, was of no more concern to the employer than it usually is to any purchaser how the tradesman disposes of his profits on the sale of his goods. There was little perception of the evils of such disorderly aggregations, little time on the part of the employers to think of them, or skill or capital to apply for their preven-

tion; and there being no public administrative care or responsibility for the protection of the popular interests, or the general public interests, in the health and morality of the population, the deleterious conditions thus commenced have been continued from reckless habits. The operative must live near his work, in any dwelling that he can get and if that which he gets is ill-drained or cesspool-tainted, he must take it and sleep in it with his family, for he can get no other. If it be without proper supplies of water laid on, his wife or he, who have been at work all day, have no time to fetch any, and they get the nearest and the scantiest supply they can, and they and their children go unwashed. Hence commonly the workshop is crowded with habitually unwashed fœtid people, often in ill-ventilated rooms. To work in such atmospheres and sleep in such conditions—the whole family being often huddled together in one sleeping room—is exhaustive to the nervous system, and the exhaustion is provocative to the use of drinks and stimulants. I once remonstrated with an apparently sensible workman, on the expenditure of half his income in whisky; his reply was—"Do you, Sir, come and live here, and you will drink whisky too." There are few, indeed, who would not, who consented to go into such places. Such conditions which provoke excess in drinks on the part of the labouring classes are commonly overlooked, as also the need of the removal of conditions for the prevention of such habits. I know that the same classes when living and working in purer air drink less.

The effects of those conditions are indeed shown on all occasions by a rise in the health of those who are in the open air when out of work. Children are reared in these conditions, and if there were good schools near the place of work or the habitations, they were of no use to the workers, for the children, when of an age to go to them, were required to help and supply the deficiency of wages occasioned by drink. To protect the rising generation from this exclusion from education, and from bodily deterioration by overwork, the compulsory provision of three hours' schooling a day, or the half-school time system, was proposed by myself and my colleagues, and is now at length assented to as a principle, though yet defectively carried out in practice. The condition of manufacturing service, of entire devotion to individual work, and of exhaustion by it, excludes much attention by the individual to many of his personal wants, or to those of his family, and they must be seen to or provided for by some external and independent public authority, by some common or special provision, or they will not be provided at all.

As it would be with soldiers in a garrison, the aggregation of people in factories without due provisions outside the factory, is productive of irregular and inferior service, and frequent unintelligent action within the factory. As, however, manufactures on a larger scale have become more settled and systematised, and the consumption of goods more regular, and as capital has accumulated, many better educated and more liberal capitalists, with leisure to look beyond the walls of their manufactories, have introduced various improvements in the condition of their work-people; some by providing better houses for them, others by providing improved schools for their children; and they have generally found that the improved external conditions, by bringing and keeping a more respectable class of people about them, have been attended by improved internal service in the manufactory. One great firm pays most sedulous attention to its own half-time schools, and will not, if it can possibly avoid, engage any one, even for superior positions, in its service, who has not gone through those schools. Whether it be single capitalists, or associated capitalists, in companies, co-operative or other, who will have to seek and probably to compete for new hands to meet the coming demands for the increased production of manufactured goods, it may be urged upon them that they would themselves do well to make more matured provision for a class of work-people qualified for the better application than heretofore of the same wages, or of the improved wages which it will probably be necessary to give.

Sanitary science and economical science will now enable them to invite new comers by saying to them, "If you join us, you may rely upon having fellow workers of respectable conditions, and of being protected from the annoyance of association with habitual drunkards, or with persons of disreputable conduct, for we permit none such to remain with us. Our place of work is warmed and ventilated on the best principle, and provision is made for the personal cleanliness and comfort of our workpeople. You will have a convenient self-contained house for your wife and family, well drained and ventilated, and provided with pure water, as also with warm water laid on from the condensing water of our works for baths and for washing, with a garden plot attached to it. Our workpeople have a co-operative store of their own, in which you may obtain wholesome food at wholesale prices, by which you will save 20 per cent. on your expenditure for food. Your children will have the advantage of a school under good teachers for physical as well as mental training on the half school-time principle. We have engaged for the pro-

tection of the health and working strength of our people, the services of a medical officer of health, less to cure than to prevent disease by seeing to the removal of its causes. If you attend to his suggestions, for yourself and family, whilst using our working and living rooms, you may reduce your sickness and insurance charges more than one-half, and extend the period of your working ability more than ten years beyond the periods obtained in other places. This will enable you, under Mr. Gladstone's Annuity Act, by increased savings, to obtain a deferred annuity, that will give you easy and respectable independence when you are past work. In the ordinary conditions elsewhere, your doom, a premature death, after a wretched life, is certain. In the common conditions, in ill-drained, ill-conditioned, cesspool-tainted houses, without proper supplies of water, for which you will have to pay higher rents in low neighbourhoods, half your children will be in their graves soon after their fifth year, as you may see by the Registrar's returns all workmen's children are in Manchester, in Glasgow, and elsewhere. But here your wife may rear them all, and educate and train them all well, and you may enjoy with her and them the comforts of a cheerful home, to the comforts of which each child as it grows up may, by duly moderated and salutary labour, contribute."

All this the enlightened leader of industry may promise and do, for we may show where one or other portion of the promise is fully performed by the most prosperous firms.

Much of this has indeed been done by public means. Where Lord Shaftesbury's Act for the regulation of the lodgings for tramps or for nightly lodgers has been properly executed, those places have been kept clear of a great part of the diseases which ravage the inmates of the weekly tenements occupied by the wage classes. Instances may be given of the reduction to one-half of the sickness and death-rates prevalent amongst them by house drainage works alone. Mr. Heywood, the Secretary of the Cotton Supply Association, has estimated, by a division of the margin of wages and profits in 1860, that the sum of £80 would be lost to the trade for every working hand that emigrated. It may be objected that if they were kept unemployed or ill-employed in such pauper conditions as many of them have been, the present value of such hands would soon disappear by the deterioration of the quality of the labour. My estimate was higher of the loss incurred for every working hand prematurely lost, as the average loss is ten years at the least of working ability by premature

deaths from preventible causes. Twenty years ago Dr. Lyon Playfair, after examining Lancashire under the Commission of Inquiry into the Health of Towns, concurred with me in the conclusion that at least 14,000 premature lives were sacrificed under preventible conditions in the cotton manufacturing districts, of whom 11,000 were lost in stages of working ability; and that a loss was thereby incurred of not less than four millions annually, a loss exceeding that apprehended in manufacturing interests by emigration. Calamity has certainly been the means of gaining an extent of attention to these means of physical improvement, which the most complete economical expositions hitherto have failed to do. If the million and three-quarters of money lent by Parliament, for the employment of the unemployed cotton operatives, should be wisely expended in putting the habitations of the workers in a proper sanitary condition, and if the experience of the results of proper works should lead to their general application to all places in the manufacturing districts, where such works are needed; if the habitations be put in a condition as homes befitting a better trained and educated population; and if the better training and education of the in-comers be provided by the due application of half-time physical and mental training, then this late and large distress will be attended by adequate compensation in social and moral, as well as in material improvement:—and if the principles of economical and social science which I have indicated in their relation with the means of intellectual, moral, and physical improvement, be duly regarded and applied,—the conditions of the manufacturing population, instead of being deplorable, will with the increased and increasing wages derivable by the people from the extraordinary improvements in the mechanical arts for which they are required as the ministers and servants, be brought up to a high state of moral and social advancement.*

In parting for the present with the great topic of manufacturing economy, I have to state that we have this year made an opening for the consideration of agricultural economy.

Agricultural associations generally confine themselves to the discussions of questions of progress in agricultural art. The discussion of questions of agricultural economy appears to be

* It was found that the further reading of the address would have delayed the business of the Sections, and it was therefore terminated at this point, and the part of the subsequent portion which relates to the application of the piece-work principle was read in the Agricultural Section.

deemed out of place there, even the education of agricultural labourers, which is so important to the progress of agricultural art itself, is little entertained by them. But here, the general survey of the whole field of labour and production will be deficient if the great agricultural portion, from which manufactures draw so largely, be passed without examination or notice. The same economical principles pervade the entire fields, though under varied conditions, which it will be advantageous to both to observe. Extensive land agents and successful land improvers who are conversant with manufacturing economy, are wont to express their wish that land should be taken in hand by men of manufacturing habits, which include the economical principles applied in manufactures. It has been confidently declared to me by practical men that the application of the like principles would be eventually attended by the like wages and profits in agriculture as in manufactures, and I believe it may be made evident that they would. In examining the general condition of agriculture, we cannot fail to be struck with its comparatively slow rate of progress. The principles of the subsoil drainage of land, for example, have been demonstrated in practice for more than a quarter of a century, and I know from official sources, that under all varieties of rude and imperfect work, such drainage repaid itself in from ten to four years—yet of the land requiring drainage, after all that has been said, not more than some fifteenth part has yet been drained. Five years may now be taken as the average period of repayment for proper land drainage works. Manufacturing economy would not linger long in availing itself of such results. In the course of some investigations, to get quickly at the knowledge of the places where drainage works were most neglected, I once asked a candle manufacturer in London from whence the greatest quantity of their rushes were got for rush lights. "From Lancashire and Cheshire," was the answer. That is from the vicinity of the great manufactures. In an agricultural report it was declared not long ago, that two-thirds of Cheshire was too wet to bear sheep. Land drainage ought indeed to be pointed out as a great field of most salutary and suitable work for the employment of the unemployed in the cotton districts. In the rural villages, old men and women, bent and withered with rheumatism from working in wet fields and living in damp cottages, are considered regular subjects for the exercise of artistic skill and sympathy. Let me cite a description I gave in 1842 of the conditions requiring the application of economic as well as sanitary principles :—

"Within many of the towns we find the houses and streets filthy, the air fœtid ; disease—typhus, and other epidemics—rife amongst the population, bringing in their train destitution, and the need of pecuniary as well as medical relief; all mainly arising from the presence of the richest materials of production, the complete absence of which, would, in a great measure, restore health, avert the recurrence of disease, and, if properly applied, would promote abundance, cheapen food, and increase the demand for beneficial labour. Outside the afflicted districts, and at a short distance from them, as in the adjacent rural districts, we find the aspect of the country poor, and thinly clad with vegetation (except rushes and plants favoured by a superabundance of moisture), the crops meagre, the labouring agricultural population afflicted with rheumatism and other maladies arising from damp and an excess of water, which, if removed, would relieve them from a cause of disease, and the land from an impediment to production, and if conveyed for the use of the town population, would give that population the element of which they stand in peculiar need as a means to relieve them from that which is their own cause of depression, and return it for use on other land as a means of the highest fertility. The fact of the existence of these evils, and that they are removable, is not more certain than that their removal would be attended by reductions of existing burdens, and might be rendered productive of general advantage, if due means, guided by science, and applied by properly qualified officers, be resorted to."

The pressure of distress from the cotton famine will at length have gained attention to one portion of this topic, and, so far as the clearance of the towns is concerned, the advice of one properly qualified, Mr. Robert Rawlinson, has certainly at last in this year 1864, been resorted to in Lancashire. An outcry has recently been raised, founded upon official medical examination by Dr. Edward Smith, on the great need of milk for the use of the town population, and especially for children. In that same report of 1842, I stated, that with reference to the sewerage of the metropolis—which was then equivalent in population to that of all Lancashire—that taking the rate of production even from the wasteful method of applying the sewerage of Edinburgh, by submersion, the refuse now thrown away would serve to feed no less than 218,000 cows annually. If the more economical method of applying liquid manure, pointed out in the official minutes of information which I was enabled to prepare in 1851, and which were laid before Parliament in 1852, by which a quantity of water or liquid manure equal to a heavy thunder-shower, may be thrown on any sort of culture at a rate of a shilling an application per acre, and the formation of sewer marsh surfaces be avoided—a double production would be obtained.

Added to the immense waste of the town manures, there is a general waste (an increasing number of model farms excepted), of all the liquid farm-yard manures, as well as of two-thirds of the effect of all the solid farm-yard manures (as demonstrated in the minutes to which I have referred), from their application in defective methods. This general waste of the farm-yard manures has been estimated by good agriculturalists as equivalent in itself to another rental of the land.

Such are the present common conditions of the fields of agriculture, besides those of manufactures, for the application of economical principles. One of the available principles which I have not time to demonstrate at length, is that which I call of *in*tensive as compared with *ex*tensive production, of the heaviest amount of produce from high culture on narrow areas of land as against thin production from low culture on wide areas. Mr. Lecouteux corroborated this, in his "*Principes de la culture ameliorante,*" that by applying different doses of manures in the proportion of nine, of fourteen, and of twenty—respectively to the same areas of land, the prime cost of raising a quarter of wheat was brought down from 40*s.* to 32*s.*, and from 32*s.* to 17*s.* per quarter, rent included. Now this reduction in price was gained by the adoption of the economical principle, the operation of which I have already described in manufactures, namely, of distributing the fixed establishment charges over the greatest amount of gross produce. Thus, if the acre which only produced twenty bushels hitherto, is made to produce forty, the double quantity will only have half the fixed charges upon it of rent, rates, roads, hedges, buildings, &c. But the greatest economical result to be looked forward to in agriculture, is in the increase in the "intelligent force" applied to it. The striking advance of the cotton manufacture is, certainly, due mainly to the great bulk of the labour being on the piece-work principle, and to the ease with which it is applied. Cotton manufactures could not, indeed, be worked as farms are, by day work. An instance has recently been mentioned to me of a family of agricultural labourers who had become mill workers, and, of course, trained in piece-work; but having been thrown out of employment during the late famine, had offered to, and had been engaged to do agricultural work, such as getting off crops, as piece-work, at less than would have been paid for day work to attain the same object, and were believed to have paid themselves well. I have been informed of other instances of the same sort. Agricultural labourers also, who have joined gangs of navvies, and have been drilled with them into their energetic piece-work habits, on returning to farm labour, will do their tasks of

work in half the time of the common day labourers. Examples of the highest order of agricultural piece-work, with increased wages, closely approaching to manufacturing wages, are presented in market garden culture, near the metropolis.

In some of the northern agricultural districts, the agricultural labourer's wages are about one-third higher than those in the southern counties; but I have ascertained that their labour, too, is full one-third more efficient; in fact, that two of these northern labourers are equal to three of the south. There are great economical results derived from the saving of one capital, as we may economically designate a man, out of three for the attainment of the same produce. The saving of the food, clothing, and lodging of one out of three, enables the produce to be divided between the two as extra wages, with some increase of profit to their employer. A great economical and social improvement would be consequent on emigration or migration, if farmers could be got to apply the piece-work principle in each case of the departure of one labourer by saying to two others: "Now, Brown is going, and I propose to put you two, Jones and Robinson, chiefly on task work, and divide his wages of nine shillings a week between you, if you will make it worth my while by also dividing his work, and doing it well between you." This, with the younger workers, would meet with a hearty response. The farmer might indeed commonly attain the result gained by manufacturers, in periods of distress, by saying to Jones and Robinson, "If I give you some extra wages, cannot you make it worth my while to do without Brown?" This is a topic for a large economical exposition. Recently in France, at the model farm for the trial of sewage manure, at Voujours, near Paris, I had the advantage of a discussion upon it with the director of the farm, Professor Moll, the most eminent scientific agriculturalist perhaps in Europe, and also with Mr. Amerfoordt, the Mayor of Haarlem, who conducts the chief model farm in Holland. It was declared by Professor Moll that economical progress in agriculture was only practicable on the piece-work principle. Mr. Amerfoordt concurred, and he gave me the following examples of payments for results, in addition to ordinary wages, which he assured me were working exceedingly well:—The steam-plough is introduced in the model farm, and over and above the regular wages a certain extra payment is made for each hectare which is pronounced to be well ploughed; the payment being divided between the engineman and ploughman and boys in attendance. The horse-keeper, over and above his fixed wages, has a payment for each living foal got from a mare;—the cowkeeper has an extra

allowance for each living calf got;—the shepherd an extra allowance for each lamb sold, or living six weeks after it is born;—the poultry keeper an extra allowance upon each hundred eggs delivered to the housekeeper, and upon each cock or hen sold;—and the dairymaid an extra allowance for each lot of butter and cheese sold, without reasonable objection to its quality from the purchaser. On this particular farm the cereals are at once worked up into bread for sale. The baker on the establishment has a fixed wage allowance, for which, however, he must sell not less than a given quantity of bread. For all he sells above a given quantity he has a per-centage. Fines for irregularities, coming late, neglecting horses, are put into a common fund, which is every quarter divided equally amongst all the men, so that the punctual and diligent have an interest in looking after the laggards.

In England a great obstacle to the application of the piece-work principle, is the low state of the education of the farmers, a larger proportion of whom than might be supposed, are incapable of keeping accounts, or even of reading or writing. The principle of paying for results, has been applied to agriculture in Scotland in the payment of shepherds. In England there has, I am told, been a glimpse of the principle in one district, gained by game preservers, who find it to their interest to make it the interest of farmers to be preservers too, in paying them per covey of partridges preserved on their farms.

This system, I am assured, works at Haarlem and elsewhere, as persons conversant with manufactures would expect it to work. The heavy stolid agricultual action is replaced by a vivacious outlook and intelligence. The food manufacturer is saved the labour and distraction of superintendence and incessant fault-finding for carelessness. With us the benighted law of partnership would prevent the baker and other servants being made responsible for losses as well as shares in the profit, making them partners, and rendering the employer liable in his whole property for the defaults of each. The amendment of this law would be of especial importance for the gentleman farmers and land improvers, who cannot give that laborious attention to details, and to checking piece-work, on which agricultural success mainly depends, and who must be dependent on farm bailiffs and stewards. The Association would render much service to agriculture as well as to trade by agitating to free it from such injurious restraints, and advance the great social and administrative problem of making interest coincident with duty.

The increasing emigration to America from Ireland, and the continued flow to our colonies from England, and the

demands from the general labour market in towns, have begun to render labour scarce in agriculture in some districts, and under the pressure of inconvenience or distress from that scarcity, to extend the use of labour saving machines. Steam ploughing has fairly "turned the corner of profit." The demand for "intelligent force" promises to be accompanied by larger demands for "intelligent directors of force." Hitherto there has been as much successful labour saving machinery unused in the agricultural districts, as there is of such machinery used, and mechanical force unused is unused from the want of intelligent directors of it. Even in manufactures intelligence is scarce and deficient for the direction of steam force. Mr. Fairbairn showed some time ago, that as much power was obtained from one pound of coal in Cornwall, where the working of the steam engines is chiefly on the piece-work principle, as in Manchester from five. Improvements have since been made, but the smoke is the outward and visible sign of wasteful work. An intelligent engineman will work a locomotive with half the coal used by one who is unintelligent. In one instance, where the enginemen were put upon piece-work principle, that is, were paid for the amount of power they obtained out of a given quantity of coal, the reduction of the consumption of coal was from thirty down to seventeen. But, in general, employers are not at the pains to get registries or to attend to them. The application of the piece-work principle would reduce the general consumption of coal enormously. Where the causes of steam boiler explosions are ascertained, they are generally found to have been the result of unintelligent direction. Mr. Fairbairn has long urged the necessity of an augmentation of the intelligence, for the direction of force, by improved elementary instruction. If the want of intelligent direction for force be great for manufactures, it is still greater for agriculture. It is well known that steam engines scarcely ever do the duty in the farm-yard that they do in the yard of the maker. I have been informed by a firm which lets out steam power for agriculture, that it is always conditional that they send men whom they know, and can make responsible for the working of their engines, for they cannot trust their engines in such hands as are at present to be got amongst farm servants.

To obtain more intelligent forces and directors of force needed for agriculture, it will be requisite to provide suitably for them in respect to habitations. At present in England, from the distances of the labourers' habitations from the farms, it often happens that a large proportion of the labourer's force is used up in walking to and from the field where he is to

apply it. His force and that of his family is further wasted by the disease consequent on overcrowding, and by the inferior sanitary condition of his dwelling. In agriculture as in manufactures, it will be found to pay to have improved habitations in connection with places of work, not indeed in direct rent, any more than farm-houses pay in direct rent apart from the land, but as practical additions to wages, and as means of obtaining and keeping a respectable, intelligent, and steady description of labourers.

The economical principles which I have indicated as evolved by the progress of machinery in manufactures, may be expected to be attendant on the extended use of machinery in agriculture. On impartial examination, on economical grounds, it will, I conceive, be found, that the fitting intelligence needed to be combined with productive manual force, as well as to direct mechanical force needed in agriculture as well as in manufactures, must be obtained by improved elementary instruction in the school-room, combined with the interest which stimulates intelligence on the half-school time principle in agriculture. Parents of the wage classes on the one side, and employers on the other, have to be informed that by proper training the value of the young, as intelligent force, may be augmented by at least one-fifth, and as "intelligent directors of force" by more than one-third.

If the advanced economical principles deducible from the progress of production in manufactures, be applied to an improved production in agriculture, as by the reduction of establishment charges, by high cultivation and the extended use of labour-saving machines, whilst as in manufactures production will be increased, prices to the consumers will be reduced, wages will be advanced, and the net profits of the capital will be augmented. The concurrent advance of agricultural as well as manufacturing production will be attended on the one hand by improved demands and on the other by improved supplies, between more intelligent populations, and mutual physical, moral, and social elevation.

SELECT PAPERS,

NOTICES OF PAPERS,

ETC., ETC.

JURISPRUDENCE

AND

AMENDMENT OF THE LAW.

Report of the Standing Committee of the Department.

ACTS OF PARLIAMENT.

THE following Acts which refer to the special object of this Department have passed since the meeting of the Association in 1863 :—

1. *Penal Servitude Amendment Act.*—The royal assent was given on July 25, 1864, to a statute in which are embodied several important amendments of our penal system. It is gratifying to find that the great principles which have always found persistent advocacy in this Association, have at length been adopted by the legislature, and are now carried into practical effect as the actual law of the land. These principles are, severity in the initial stages of the punishment, enlargement of the period for which the minimum sentence of penal servitude should be passed, strict enforcement of the conditions endorsed upon the licences granted to convicts at large before the expiration of their sentences, the more efficient supervision of such convicts by the police, and a better system of inducing habits of industry and good conduct during imprisonment through a judicious distribution of marks.

With respect to the length of sentences, the second section of the Act (27 & 28 Vict. c. 47) enacts that five years shall be the minimum period for which sentences of penal servitude shall be passed. And that after previous conviction of any crime punishable with penal servitude, no sentence of less than seven years' penal servitude shall be passed. Again, the principle of police supervision has been expressly and fully conceded. The law now in force with respect to the supervision of licensed convicts is shortly this : Every holder of a licence who shall be at large in the United Kingdom must report himself to the chief police station of the borough, or police division (in Ireland to the constabulary station of the locality), to which he may go within three days after his arrival therein. Male convicts thus at large are bound to report themselves as above, once in each month. And before migrating from one police district to another, the licence-holder must intimate his intention so to do to the police or constabulary station to which he last reported himself.

Every infringement of the conditions prescribed by the statute, is a misdemeanor and, *ipso facto*, involves a revocation of the licence. In like manner the licence is cancelled by a conviction for any indictable offence.

The subject of intermediate prisons, though very fully considered by the Royal Commissioners, is not at all adverted to in the recent Act. With our present machinery for executing our penal laws, it is perhaps too much to expect that so great and valuable a reform should be at once conceded. It is to be hoped, however, that the administration of the present system will be so conducted as to pave the way for this most important desideratum.

The circular letter recently addressed by the Home Secretary to Her Majesty's Judges, may be taken as explanatory of the construction put upon the statute by the executive. It is a document of considerable importance, inasmuch as it appears to indicate on the part of the Government, a firm determination to strictly carry into effect the excellent provisions of the recent Act.

2. *Judgment, &c., Law Amendment Act*, 27 & 28 *Vict. c.* 112.—This Act provides that no future judgments shall affect any land until such land shall have been delivered in execution ; and enables (section 3) any creditor to whom any land shall have been actually delivered in execution, to obtain from the Court of Chancery upon petition, in a summary way, an order for the sale of his debtor's interest in such land. Purchasers with or without notice will not therefore be bound by any future judgments till the creditor is in possession. The Act contains provisions for registration of executions for the security of intending purchasers.

BILLS.

The following Bills were introduced during the last Session but failed to pass into law.

1. *The County Court Acts Amendment Bill.*—The Committee having carefully considered this Bill in detail, drew up a Report in which after briefly describing its provisions, they stated the arguments for and against the changes it proposed to make : particularly those upon the question whether it is advisable that facilities should be given to the working classes for obtaining credit.

Much may be said on both sides concerning this question of credit. Mr. M'Culloch, in his Commercial Dictionary, has gone so far as to advocate the total abolition of all actions for debt under £50—his chief argument being contained in the following passage. " One of the worst consequences of the present system is the sort of thraldom in which it keeps thousands of labourers and other individuals whom the improper facilities for obtaining credit originally led into debt. Such persons dare not leave the shops to which they owe accounts ; and they dare neither object to the quality of the goods offered to them, nor to the prices charged. Dr. Johnson has truly observed that ' he that owes more than he can pay, is often obliged to bribe his creditor to patience by increasing his debt.

Worse and worse commodities at a higher and higher price are forced upon him; he is impoverished by compulsive traffic; and at last overwhelmed in the common receptacles of misery by debts which without his own consent were accumulated upon his head.' By taking away all right of action upon small debts, this system of invisible but substantial coercion would be put an end to. The tradesman would take care who got, in the first instance, upon his books; and, instead of forcing articles upon his customer, would cease to furnish him with any, unless he was found regular in making his payments; while the customer to whom credit was of importance would know that his only chance of obtaining it would depend on his character and reputation for punctuality. The abuses of the sort now alluded to, that grew out of what has been denominated the truck system, justly occasioned its abolition; but these were trifling compared with those which originate on the bringing of petty debts within the pale of the law."

Mr. Sheriff Hallard, in a paper read before the Association last autumn at Edinburgh,* while rejecting the proposal of Mr. M'Culloch as far too wide, proposes to extend the provisions of the Tippling Act to the sale of the necessaries of life, or in other words, to abolish all actions for such necessaries, as between retailer and consumer, where the amount of each transaction is under 20*s*. The avowed object of Mr. Sheriff Hallard, who says that he speaks from long experience as a small debt judge, is to substitute cash payments for the credit system, as the general rule, and to leave the working man to obtain credit, when absolutely necessary, by his character for honesty and punctuality of payment. The system of what is termed "arrestment of wages" in Scotland, is remarked upon in the same tone by Mr. George Anderson, in a paper read before the Association, at Glasgow, in 1860,† his allegation being that the credit created by the system leads to improvidence and to dishonesty, both in dealer and customer. The Lord Chancellor in his speech of the 7th of May last, when introducing the Bill, states this view strongly:—"As soon," he says, "as the county courts were established, there grew up along with them an infinite expansion of credit; small shopkeepers gave credit in every village; pedlars went from cottage to cottage offering credit; every kind of temptation was held out to the improvidence, thoughtlessness, and self-indulgence of the poor man. It is his misfortune that he now obtains credit *ad libitum*." Several of the county court judges, in their replies to questions addressed to them by the Lord Chancellor, on March 11, 1863, admit that the county courts afford excessive facility for credit, and that it would be well, if possible, to modify the present system. Nor can it be doubted that the example of the co-operative societies shows the possibility of establishing a habit of cash payments, and the great advantages, both pecuniary and moral, which result to the operative classes therefrom.

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* See *Transactions*, 1863, p. 167. † See *Transactions*, 1860, p. 743.

On the other hand, it can be urged that the economy of ready money transactions should be obtained by the self-control and foresight of those whom it will benefit, and not by any legislative interference; and that the very instance of the co-operative societies shows that the possession of these qualities is not beyond the reach of a large portion of our labouring population. It may be doubted whether, under their present circumstances, it is possible for the weekly wage classes to dispense with the credit system; and it is certain that the more completely the creditor is deprived of legal remedy, the higher is the price which the debtor will have to pay for all necessary credit; and, moreover, that the retail tradesman would be compelled to charge a higher price for his articles, in order to cover the additional losses he might sustain. The replies of the county court judges, already alluded to, seem to be conclusive on this point. Mr. Bevan shows that, by the custom of mining in Cornwall, no payment of wages is actually made to a miner, till he has been working two months, when one month's wages only are paid, so that every miner has always a month's wages due; it appears that in South Wales, a similar custom, but extending only to one week's wages, exists with respect to the miners; and looking to populations thus situated, credit seems to be a necessity. Considering the vicissitudes of labour, and the migratory habits of many of our operatives, it is hardly possible to suppose that they could be independent of credit, or that the retail tradesman could always have the means of knowing the character of his customers. The Lord Chancellor has argued that dealings with the working classes should be on the same footing as those with the upper and middle classes, and that the creditor should rely on the property of the debtor for his security, and if he rashly gives credit, without ascertaining the existence or the sufficiency of such property, he must be content to lose his debt. But to this it is replied that the property of the working man is in the great majority of instances solely in his labour, that often living in lodgings, and having few chattels, he can offer no assets as security, and that it is therefore only reasonable that the law should provide his creditor with a different remedy from that usually applied to other classes.

Upon this general question of credit the Committee offer no decided opinion, but they wish to point out that if it were thought desirable to abolish credit the Bill did not go far enough, and that the enactment proposed by Mr. Sheriff Hallard, or that suggested by Lord Cranworth of abolishing all actions under £3, would be much more effective; whereas if it be desirable that the working man should be able to obtain credit, or in other words to give security to his creditor, then the Bill went too far, by abolishing what seems to be the only sure means of obtaining payment.

The objections urged by the county court judges against the abrogation of the power of imprisonment now vested in them, were so strongly supported by representations from those classes which would be most affected by the change, that the Bill was withdrawn.

With respect to the third part of the Bill, which purported to introduce a limited system of equitable jurisdiction into the county courts, the opinion seemed to be generally favourable, and the Committee regret that this improvement has fallen through with the other parts of the measure.

Attorneys' and Solicitors' Remuneration, &c., Bill.—On the 9th June last, a Bill bearing this title was brought in by the Lord Chancellor. The first part proposed to legalise contracts between attorneys and their clients as to "the manner, rate, and scale of their remuneration" for professional duties either past or future. This change had long been advocated by the Law Amendment Society. The Bill contained three other parts, in which it was proposed to make several important changes in the law of real property, and after the second reading it was referred to a Select Committee.

*Concentration of Courts' Bills.**—Very late in the session, two Bills were introduced by the Government, one to enable the Commissioners of Her Majesty's Works and Public Buildings, to acquire a site for the erection of Courts of Justice; the other a money Bill; the latter was withdrawn. The Attorney-General, in doing so, stated that it would be impossible to carry it through, unless it were unopposed, and that the Society of Lincoln's Inn had petitioned against it. He undertook, however, to introduce the Bill at the earliest possible period next session. The Courts of Justice Site Bill having been read a second time, was referred to a Select Committee.

Appeal in Criminal Cases.—The Bill introduced by Sir Fitzroy Kelly, for providing a further appeal in criminal cases, was withdrawn. There seems to be little, if any, difference of opinion as to the necessity for some more satisfactory mode of reviewing the facts in criminal cases than that furnished by the Home Office: but the manner in which this reform is to be made will probably give rise to much discussion.

A Bill to Consolidate and Amend the Law of Copyright.—This Bill was referred to a Select Committee, who had not reported at the end of the session. The task of collecting, reconciling, and amending the many Acts which relate to literature, the drama, and the fine arts, is one of peculiar difficulty, and will require great caution and judgment.

Justices' Procedure Bill.—A Bill was introduced into the House of Commons to consolidate and amend the Acts relating to procedure before justices of the peace out of quarter sessions in England. This Bill was prepared by our fellow-member, Mr. Oke, in accordance with the suggestions contained in his paper, read before the Association in 1862. The consolidation which it aims at effecting was recommended by the Statute Law Commissioners, in 1857, and there is no doubt of the importance of the work, and of the need

* See *Transactions*, 1862, pp. 136, 210.

for its legislative completion. It was only introduced late in the session in order that it might be considered during the recess.

*Superior Courts of Common Law and Equity (Ireland) Bill.**—The first Report of the English and Irish Law and Chancery Commission recommended that the system of practice and procedure of the Courts of Common Law and Equity in Ireland should be assimilated to those of the same courts in England; whilst certain changes in the system prevailing in the latter were proposed. Two Bills for carrying into effect the proposal of the Commissioners with respect to the Irish Courts were introduced last session. The Committee regret to say that these Bills were not pushed forward with sufficient vigour to allow of their being passed.

A Bill to Amend the Law Relating to Partnerships.—This Bill had the same object (that of limiting liability in private partnerships) as the Bill brought in last session and withdrawn.† There were, however, two modifications. The clause in the former Bill requiring the registration of the names and addresses of each partner was omitted. In its place it was provided that all partnerships, whether limited or not, might sue or be sued in the name of the firm. The clauses in the former Bill providing for settlement of partnership disputes by arbitration were also omitted in this Bill. In consequence of the adoption in Committee of an amendment which rendered it necessary that all limited partnerships should have the word "registered" added to the name of the firm, the Bill was withdrawn by Mr. Scholefield, who had introduced it.

REPORTS OF COMMISSIONS AND COMMITTEES, PUBLICATIONS, &c.

Punishment of Death.—The subject of capital punishment has again been brought before the legislature in the shape of a motion by Mr. Ewart for a Select Committee. The result of the debate was that on the motion of Mr. Neate, the Crown has been addressed for a commission "to inquire into the provisions and operation of the laws under which the punishment of death is now inflicted in the United Kingdom, and the manner in which it is inflicted, and to report whether it is desirable to make any alteration therein." The terms of the commission are so wide as to allow of a full and exhaustive inquiry into the whole question.

Law Reporting.—In pursuance of a requisition to the Attorney-General, a meeting was held in December last, to consider the existing system of Law Reporting, and suggestions for its amendment. At this meeting the whole question was referred to a Committee, who have presented a Report in which they propose a scheme for bringing the whole system of Law Reporting under the control

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* Title of Equity Bill.

† See Report of Standing Committee, *Transactions*, 1863, p. 226.

of a council of fifteen, two of whom should be appointed by the Incorporated Law Society, two each by Lincoln's Inn and the Middle and Inner Temple, one each by Gray's Inn and Serjeant's Inn, and two by Government; the Attorney and Solicitor-General and Queen's Advocate to be *ex-officio* members. This council the Committee suggest should be incorporated by Act of Parliament or Charter. The Committee recommend that the reports should be prepared under the supervision of two editors, at salaries of £600 each; that there should be eight reporters at £500 each; twelve at £400 each; two at £250 each, and two at £100 each. That the editors and reporters should be barristers, but that no restriction should be placed on their right to practice. The Report of the Committee contains a great number of suggestions as to the financial management of the reports to be published by the council. The further consideration of the scheme was adjourned.

Chancery Fund Commission.—A very valuable Report has appeared from the Commissioners appointed to inquire into the constitution of the Accountant-General's department of the Court of Chancery. The Report recommends that the Accountant-General's office should be reconstructed, and proposes various changes in the relations between that office and the Bank of England, the report office, and the registrar's office, as well as in the internal work of the office. Important recommendations are made as regards the operations of paying money and transferring stock into and out of court. The establishment of a deposit account for suitors' money, and the allowance of interest at the rate of £2 per cent. upon money belonging to suitors, which they do not require to be invested, is also recommended; but the propriety of making any alteration in the present mode of buying and selling stock for suitors is deferred until the establishment of such deposit account. There are also very valuable proposals as regards the management of the funds in court.

Indian Civil Code.—The Committee desire to draw the attention of the Department to the First Report of the Commissioners appointed to prepare a code of law for India. India is the only country in the world enjoying the advantage of a civilised government which does not possess any substantive law. Within certain local limits round the three presidency towns of Calcutta, Madras, and Bombay, the law is indeed fixed, though various; the Hindoo and Mahometan inhabitants, who form of course the great bulk of the population, being entitled to their own laws on all matters of inheritance, and succession, and contract; while on all other persons and in other matters the law of England is exclusively binding. It is, however, the law of England as it existed in the thirteenth year of George I., when the Recorder's Court of Calcutta was established by royal charter, with the addition of any Acts of Parliament since passed expressly relating to India, of the laws and regulations enacted by the Legislative Council of India, and of the decisions of the Indian Supreme Courts. But outside the narrow areas of the presidency

districts no fixed law of any kind is administered by the tribunals. The Mofussil or Provincial Courts are not courts of law, but of equity and conscience, the judges being directed to decide each case as it arises on its own merits, and as far as possible according to justice and reason. But finding themselves bound by the maxim that "equity follows the law," the judges have thought it necessary to ascertain the particular law which their equity should follow for each litigant; and a custom has grown up of administering to the multifarious races and tribes of our Indian empire their real or supposed laws or customs; such as, to the Hindoo and Mahometan their undoubted codes, to the Armenian and Parsee their doubtful usages. Under this singular and, save in the confusion of mediæval Europe, unprecedented state of things, not only are the judges perplexed and justice is rendered uncertain by a complication of laws, but the courts, as Sir Lawrence Peel long since observed, are occasionally driven to the necessity of a preliminary inquiry into the pedigree of a litigant, before they can know what rules are to be applied to his case!

These mischiefs were pointed out, and the remedy, being the enactment for India of a code of substantive law, was suggested by the Indian Law Commissioners more than twenty years since; and their opinions were approved and enforced by the Commission appointed to consider the reform of the Judicial Establishments, Judicial Procedure, and Laws of India, &c., which sat some years ago. In consequence of these inquiries and representations a Penal Code for India was prepared under the guidance of Lord (then Mr.) Macaulay, and a general code of procedure in civil suits was also framed. We have now before us, in the First Report of the present Commissioners, the first instalment of a substantive code of civil law applicable to the whole of our Indian Empire. The portion now published deals only with the laws of inheritance and succession, and is not intended to apply to Hindoos or Mahometans. The law of England has been taken as the basis of the code, but such modifications are introduced as are rendered necessary or desirable by the peculiar circumstances of India. For instance, no distinction is made as to moveable and immoveable property, but the devolution of both is to be governed by one system of rules. Again, a husband will not acquire by law an interest in his wife's property during her life, and a married woman will retain her powers as a *feme sole.* These and other provisions suited to the habits and requirements of the population of India make it probable that, at some future time, it may be found feasible to extend the operation of the code to Hindoos and Mahometans as well as to the other inhabitants.

The Committee venture to express their admiration at the manner in which this part of the future substantive law of India has been prepared; especially with regard to the illustrations introduced after the example set by Lord Macaulay in the Penal Code; but at the same time they must express their belief that the enactment of no civil law for India, however well framed, can be of avail for the

due administration of justice, unless vigorous means be taken to improve the judiciary, and elevate the bench in the provincial courts to its proper position.

THE LAWS OF REAL PROPERTY.*

The Laws of Settlement and Primogeniture. By J. E. THOROLD ROGERS, *Professor of Political Economy in the University of Oxford.*

THE members of this Association have no need to be informed that the fundamental postulate of all social and economical inquiries, is that which estimates all human institutions by their general utility, and that the logical method by which all existing practices and all legislative regulations should be examined, must needs be sceptical. If at the outset of any research into facts of political action, of social privilege, of legal immunity, of legal or social disability, we are told that an existing state of things involves a right which we must hold sacred, or an interest which is special, peculiar, venerable, and which should be jealously protected, all reasoning is at an end; because the only ground on which economical reasonings can be marshalled is shifted, and becomes a quicksand. And similarly, if we are answered by the common retort of vulgar optimism, that the present practice works well; that we are, since a certain degree of social prosperity is co-ordinate with the practice, indebted to it for such and such economical advantages, and are thereupon, *post hoc ergo propter hoc*, bidden to refrain from doubting whether greater and more diffused advantages would not ensue from a removal of the practice,—we are as before relieved from the necessity of reasoning, because such a line of defence renders all reason nugatory. Whatever does constitute the social, political, and legal habit of a nation, has in all controversy the enormous advantage of an entrenched position; it is too much to assert that its position ought not to be assailed because the defenders are satisfied that their lines ought to be impregnable. But though we may be persuaded of the general truth of these two maxims—that institutions are to be valued by their direct general utility, and that they should be examined sceptically—we shall constantly need to be reminded of these maxims, and we shall almost invariably if not always find that the defence instituted for any social or legal anomaly, is to be traced either to the avowed or covert design of protecting some special interest, or to the desire of avoiding a dangerous scrutiny into facts, by the bold assertion that the facts in question are means of good instead of being causes of evil.

Even those who have but little information on legal history are

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* For the Discussion, see Summary of the Department.

aware that the course of legislation in England has, from very early times, been of a protective character; and that though some legal axioms and a few enactments have been directed against the accumulation of privileges and the strengthening of anomalous rights, the general tendency of statutes, and (after the reformation at least) the skill of conveyancers have served the end of bestowing exceptional privileges on particular interests. The statutes of labourers enslaved the agricultural classes by determining the rates of their wages, and by fixing their abode. When, in the interest of the Crown, the perpetuity of entailed estates was invaded, the tenure, till our own times, was unassailable by any process for the recovery of common debts. When, in the same interest, the fiction of a use became a legal estate, the ingenuity of conveyancers retained as against the general public all the special advantages which that form of tenure bestowed on the owner. When again the first Parliament of Charles II. met, and the question arose as to how that part of the revenue of the Crown which had been derived from feudal incidents should be recovered, the landowners of the time took advantage of the first burst of exuberant loyalty to emancipate their estates, and adroitly transposed the burden to the general public, by the enactment of the hereditary excise. The power of settlement, curtailed in its beginning by the jealousy with which the law looked on contingent remainders, was expanded by the devices of conveyancers till it culminated in the absurdities of Thellusson's will. And we all know how, in the supposed interest of landowners, protective restrictions hampered the efforts of commerce, stultified the calculations of the agriculturist, and beggared the day-labourer. The victory of free trade, great as was its immediate benefit, was still more important in that it asserted the principle that special legislature for particular, as opposed to general, interests, was mischievous and indefensible. It is not, however, to be concluded that because the principle has been declared and admitted, it has been practically applied to all the cases which are subject to it.

We may conclude then that, *prima facie*, arrangements like those of primogeniture and the privilege of creating a strict settlement, are part of that system of legislation which experience tells us has been always characterised by consideration for particular classes of persons in opposition to what constitutes the general interests of society. It may very well be the case, that the provisions and precautions of law, while they seem to further special ends, may defeat or seriously impair them; or, if they bring about certain results advantageous or convenient to such special interests, involve at the same time, or subsequently, inconveniences or dangers to the very interests which they profess to maintain. The custom of primogeniture and the privilege of strict settlement have for their principal purpose the maintenance of the aristocracy of this country. They may be, however, and if all historical parallels can be relied on, will be, powerful causes for the weakening of this element in the constitution. I cannot conceive anything more dangerous to the influence and

even the reputation of any class in society, than the possession of a privilege which is unknown to the practice of the great mass of the community, which is unparalleled in any other civilised state, and which is seen more and more to be a clumsy device for maintaining unimpaired the social position of a few great families.

I am not, indeed, concerned in this paper with the political consequences of the customs of primogeniture and strict settlement, and but indirectly with the social effects on the favourites or the victims of the system. But in the defence which is ordinarily made for the practice, it is common to find that the advocate of primogeniture bases his reasonings in its favour on the necessity there is for assuring a permanent position to one branch of the legislature; of supporting hereditary rank with the solid buttress of hereditary and indefeasible possessions; and on the need, it may be, in the language of the noble poet, of sacrificing commerce and manufactures to the life of an old nobility.

There is, of course, no necessary connection between primogeniture and the privilege of strict settlement. The former is the act of law, the other the permission of the law, but the act of the party. Primogeniture has its beginnings, if not at the commencement of legal memory, at least at so remote a period as to have been accepted as a *lex non scripta.* Further, it seems in its origin to have applied generally to military tenures, and but variously to socage, copyhold, and burgage holdings. As is well known, it never prevailed in Kent. And as antiquaries are aware, this immunity from primogeniture in the most thickly peopled and richest part of ancient England, was not due to the base nature of the tenure in that county. It is said that there was no serfdom in Kent, and that the proof of birth in Kent was held by the courts to be a sufficient bar to an action in villanage. I can confirm this statement negatively, for out of many hundred farm accounts of estates situate in Kent, which I have investigated for the reigns of the first three Edwards, I have never yet met with a customary service or a customary rent, frequent as they are in the records of estates in other counties.

But, in point of fact, the common law right of primogeniture was comparatively of little significance to its object during the thirteenth and fourteenth centuries, the time in which the custom became general. Land in the Middle Ages was the cheapest of commodities. It was commonly let at from 3*d.* to 6*d.* an acre, it was sold at from ten to twelve years' purchase, and the scanty rent derived from the occupation of others was reduced largely by the onerous burden laid on military tenants. Taxation was heavy and capricious. Labour, relatively to production, scanty and dear. It is sometimes said that at the present time, all the wealth of England is the produce of the last two years' labour. The statement is probably an exaggeration, though of course the value of real property in this country is incomparably less than that of personal. But in the Middle Ages, when there was but little foreign trade carried on by this country, and the two great schedules of property were land and its produce, the state-

ment would be literally true. Two years' produce was fully equal to the value of the fee simple of the soil.

The Association will not, however, wish to hear a dissertation on the causes which have led to so complete a revolution in values as has occurred in the rent of land, or to enter into the history of the circumstances which have led to the custom, peculiar to England, of casting all the estate on one son, to the exclusion of his brothers and sisters. It is sufficient to observe that the beginnings of the practice implied very different conditions from those which now prevail, and that an inquiry into these conditions would show that a change in the custom would be really much more in accordance with the character of ancient times than its retention.

Over the greater part of England primogeniture is the rule. By this rule, the real estate of an intestate person is cast on the eldest male descendant, who represents him in right of blood. Primogeniture does not apply except in cases of intestacy, for the right of devise over unsettled estates has been, to all intents and purposes, absolute, since the Restoration. Hence it is sometimes alleged that the hardship of being excluded from any portion of an intestate estate, the possible reduction to beggary of all the sons and daughters of a father who has failed to make any provision by will, is a reasonable penalty on neglect of duty. Vicarious penalties, however, are never held to be just. Even when actual crimes are committed, public opinion is strongly adverse to the extension of the punishment to parties not privy to the offence. A forfeiture for treason or felony, which falls on heirs, is offensive to the public conscience. It must needs be a very cogent reason which could be alleged in favour of disherison for intestacy. And such a reason can only exist in case powerful economical benefits or overwhelming political necessities are shown to be dependent on a practice so alien to natural justice.

On the other hand, though the perpetuity of an entail has long ago been invaded, the privilege of strict settlement is a less invidious, but as completely effectual a means for the perpetuation of estates as the ancient system of conditional grants. Under the old disabilities of tenant in tail, alienation was possible on failure of donees under the original grant. This could not in those times have been a rare event. It was only when a claimant could show his pedigree from the first donee, that the discretionary power of alienation was forbidden to tenant in tail. It is important to notice this, because it is very often said in answer to objections alleged against modern conveyances, called generally, but incorrectly, conveyances of entailed estates, that, practically, entails do not exist at all, and that alienation by tenant in tail is as possible and convenient as that of tenant in fee simple. But the modern substitute of the ancient tenant in fee tail is the first taker under a strict settlement, a personage whose powers are vastly more limited than his presumed prototype, and by this system of strict settlements estates are more effectually tied up than they were of old under the statute of 13 Ed. I.

At present the tenant of any estate has power to grant to himself or others an interest for life in lands, with succession to as many persons in being as he wills to select, and with remainder in tail to the unborn children of as many of such persons successively as he pleases. Before the practice of uses, no grant could be made from a tenant to himself. An estate can therefore be, and of course is perpetually, granted to non-existent objects, and the possibility of such an estate becoming open to alienation may be made, and of of course is made, indefinitely remote. Till the time of Thellusson's will, the power of the tenant of an estate in fee was even larger. He could direct the accumulation of the income of real estate during as many lives in being as he might think proper to select, and limit feetail in the accumulations to the last person born before the decease of all the parties named in the instrument of gift. But the mad vanity of this silly old man called for some change in the existing powers of grantors. Even Lord Eldon, though he pronounced in favour of the will, agreed that some reform was necessary.

The law, we are told, abhors a perpetuity. The inalienability of tenure was the chief article in the indictment against tenants in mortmain. The accumulation of land in few hands was the economical argument against the monastic estates. But the epoch before the Reformation witnessed no such absorption of the soil by individuals, as the present century does. In the last year of Queen Anne, nearly 4,000 freeholders voted in a contested election for the county of Sussex. It is not likely that at present 400 persons could be found in that county, having estates of the same character as the voters had at the electoral contest of 1714.

It cannot be said that this accumulation of real estate in the hands of few persons is due to natural or economical causes. On the contrary, it results in defiance of both. The laws of social life are based as completely on the freedom of exchange as those of our moral being are on the freedom of our will. To withdraw the greater portion of the soil of a particular country from the contingency of appraisement by granting power to temporary owners of making a permanent and practically inalienable settlement, is as great and palpable a violation of the condition of free exchange as can be conceived. When out of any mass containing an economical value, the greater part is excluded from the operations of the market, the price of that which does remain for sale is unnaturally inflated, and the evils consequent on such an irregular overvaluation are, when any pressure occurs, greatly exaggerated. And these inconveniences are intensified, when the quantity of that which can be offered for sale is necessarily limited. There is no article of value which is of so paramount a significance to the general community, and which should be, because absolutely limited in quantity, so free from the trammels of inalienability as land.

No person under ordinary circumstances is ever called upon to dispossess himself of that which can be produced indefinitely by others. But when an exigency arises, this right of property, always

of course under the condition of adequate compensation, may be and is invaded. The inhabitants of a besieged town would not consent that the owner of great granaries should hold his interest while they were starving. When for public purposes of utility it is necessary that rights of property should be extinguished, the general interest is constantly overriding personal or individual right or sentiment or sympathy. But there is no kind of property the owner of which is so liable to this compulsory dispossession as land. It is surely no fiction that the last heir of all estates is the community, because the soil being the property, in the highest sense, of the nation which subsists on its surface, and the usufruct of the soil alone being, for obvious economical reasons, secured to individuals, the community neither can nor will abandon the ultimate and indefeasible interests which it has in the land. Even then if society, as all admit, is competent to determine the extent and nature of individual rights, if it can in its interests check or limit the power which each of its members can exercise over his own acts and the acts of others, still more is it empowered to limit the duration of those privileges which are granted to the possessor of this usufruct in the produce of the soil, still more is it justified in narrowly scrutinising the social and economical consequences of that privilege of binding the present and the next generation by private arrangement, in the settlement of estates. If it can be shown that such a power of settlement tends to increased production, has along with the satisfaction of an individual's will a public utility direct or indirect, and appreciable by the community at large, the right of tying up estates is a public good, analogous to, and indeed part of what every one admits to be desirable, the security of possession in the fruits of labour; and such a security of possession in instruments of labour as must needs be assured before labour could be continuously exercised. If, on the other hand, it be found that such a usurpation of right upon an existing generation as is involved in the exclusion of by far the greatest portion of the country from the operation of free exchange, diminishes the productiveness of the soil and is the cause of many social and economical evils; there cannot be any sacredness in the privilege of settlement and the custom of primogeniture which should induce men to acquiesce in the mischief which they suffer from the permission accorded to those peculiarities in their social system.

And it cannot be doubted that the existing system of land tenure in England checks the application of capital to the soil. We need not, in order to show this, contrast small and large farming, peasant proprietorship with farmers' rents, the division of the soil into numerous small farms, as in France, and, indeed, generally on the Continent, with the comparatively large holdings in the United Kingdom. The real issue in the discussion of the effects of primogeniture and strict settlement has been utterly displaced in the importation of questions like the above-named. Still more irrelevant is the position, that those who object to the existing practice desire

to adopt the continental system of compulsory division, or any other limitation on the discretionary power of a testator, in the choice of objects for his will.

But in order to discover what the practical effect of the English system is, we should compare the ordinary productiveness of the soil as occupied by tenant farmers with that which does prevail when capital can be abundantly supplied to the soil, at the discretion either of the owner or of a tenant at a long lease, or a tenant who has secured such covenants as guarantee him a certain remuneration for capital expended on the permanent improvement of his holding.

Now all evidence is in favour of the increased productiveness due to ownership or security of tenure. I do not discuss, for this is not putting a fair case, whether the productiveness of land in England is either less than or equal to or greater than the productiveness of land in France; but I assert that when an estate is owned or permanently occupied with fixity of tenure by the agriculturist, the result is a vast increase of production. It may be that Mr. Mechi's balance sheet is, as some agriculturists have asserted, delusive, although it satisfies its author; but no one can doubt that the soil which Mr. Mechi has made so abundantly fertile, owes all its adventitious virtues to the abundant employment of capital by its owner. For the passion which leads men to beautify, to permanently fertilise, to discover and fully call into activity all the conveniences and utilities which are found in natural agents, requires permanency of property and immediateness of interests. It may be unlikely that the owner will ever reap the full fruit of his own expenditure in his own person, but if the property is his and he has the full right of alienation, he has the enjoyment of expectation, and the conviction that he or his devisees will be sufficiently compensated for his labours and expense. Those people always make the best use of that which belongs to them, who know that it is absolutely at their own disposal, and who can live in and see the fruit of their own labours. The picture which Michelet draws of the passionate attachment displayed by the French peasant to his homestead and farm may indicate, perhaps, a morbid and narrow energy; but it is conclusive as to the natural bias of unrestricted ownership, and proves how far more painstaking, farsighted, and persevering is the labour of the owner when contrasted with the languid and timid practice of the temporary occupier. It is impossible to believe that there can be any active spirit of enterprise in a tenant at will.

There is only a difference in degree between the position of such a tenant and that of the occupier under the terms of a strict settlement. The whole possession of such a person is a contest between opposing interests. If he desires to improve his estate he does so to the advantage of an individual who is his own son, indeed, but who is, however, from his birth virtually the antagonist of his father. To improve is to sacrifice what can be hoarded for the maintenance of his younger children. If he is thrifty and does not improve, he has constantly before him the prospect of a depreciated

estate, and the embarrassments which will lead his heir, in case he can avoid entering during his ancestor's life into a resettlement, to sacrifice the present for the future; in case he does, to preserve the nominal appearance of wealth at the expense of great indebtedness. It may be safely asserted, that improving and experimental landlords are, nine cases out of ten, persons with estates unencumbered by the terms of a settlement, or are possessed of great funds and few tastes.

The appearance of great wealth, and the fact of great embarrassment can be productive of nothing but serious moral and economical evils. But this is the case with the great majority of landlords. In discussing some of the questions which arose out of the controversy between Mr. Cobden and the editor of the *Times*, the *Economist* newspaper called attention to the discrepancy which almost always exists between the nominal and actual income of the possessor of an estate valued at £10,000 a year, and showed that, in the vast majority of cases, the spending power of the owner was limited to a fifth of the rent-roll. Out of this he has to save for his younger sons and daughters. How can such a man improve or develop the natural capacities of the soil? He is in the position of a farmer, with an estate to cultivate requiring five times the capital which he can devote to it.

It is obvious to answer that there is no country in Europe which has made advances in agriculture equal to those which have been effected by Great Britain. But the argument is more plausible than sound. In the first place, the generality of the statement may be doubted. Large as has been the improvement in cereals, roots, and the breeds of stock, the progress made in this branch of agriculture does not exceed, and perhaps not equal, the skill of the French in the adaptation of the soil to the cultivation of the vine, and the manipulation of the product. Land in France, on which the choicest and most select vintages are grown, is sold—I make the statement on the authority of a purchaser—at not less than £1,000 sterling the English acre. And though it is no doubt true that a portion of this price is due to fashion or habit, yet no small part is due to the skill with which the labours of the vintage are superintended. A vineyard has by no means a permanent reputation if its proprietor be ignorant or negligent.

Besides, even were it the case that agriculture has progressed with greater rapidity in England than in France, we must make great allowance for the comparative abundance of capital in our own country; the larger spirit of enterprise, and those habits of the people derived perhaps from their physical constitution, and the peculiarities of the climate, which bring about the greater consumption of bread and meat. It is not the improvement of breeds in cattle which is affected by the present tenure of land in England; the evil manifests itself in checking the permanent improvement of the soil, an improvement which the landlord cannot, and the tenant dare not effect. And as, relatively to its natural fertility, and the amount

of its surface available for cultivation, the population of this country exceeds in density that of any country in the world, except perhaps Belgium, the economical stimulus to improvement should be the most powerful.

If we impede the equilibrium which should exist between buyer and seller, by artificial limitations on either, we inflict an economical loss on both parties, and the greater the loss the more uncertain in its application is the impediment. It was felt that the old system of tithes was a hindrance to agriculture, and a wrong inflicted on enterprise and skill. But the evil of a practice which locks up perhaps three-fourths of the soil from legitimate competition is, if real, a greater public mischief. In what do the risks inseparable from the limitations on the exchange of land differ from those attendant on the confessed nuisance of manorial rights in copyhold tenures, except in degree ?

It need hardly be stated that competition for the use of land, the degree of which is measured by rent, is very different from competition for the purchase of land which is determined by the amount of years' purchase at which the land is valued. To compare the two objects would be similar to that of comparing impediments put on the importation and exportation of money, with the phenomena of the rate of discount.

Some of the worst effects, however, of this system of accumulating land in few hands, and in the diminution of facilities for the acquisition of freeholds, are to be found in the dwellings of the community, and especially of the poor.

It is my lot to live in a city the greater part of whose area is owned by corporations. Nearly seven-tenths of the surface within the academical limits of Oxford, more, probably, within its parliamentary boundaries, is the property of the colleges and the city. Up to a late period, these corporations were disabled from letting lands, even for building purposes, for a longer term than forty years. It is needless to say they were not open to those necessities which to a limited extent affect ordinary owners, and which render the alienation of land to some extent possible. Except in the fact that they could not pledge their income, they induced even a worse state than is done by the needy and often bankrupt proprietors of most settled estates. They live from hand to mouth, and cannot improve. They cannot, as in London and other large towns, where the competition for special localities is at the maximum, compel conditions of building, and the consequence is that the houses in Oxford are high rented, miserably built, and, being for the most part constructed of lath and plaster, highly unsafe. Not that the corporation or the lessee gets the advantage of the high rent paid by the tenant. The margin devoured by the necessity of perpetual repairs is larger than would be ordinarily believed.

But where house rents are made unnaturally high by the scanty amount of land available for building in towns, it is notorious that the heaviest incidence of such exceptional dearness is in the cottages

of the poor. The worst parts of London are those which are owned by corporations. But a few years ago, the whole of a considerable town in the north of England was possessed in nearly equal moieties by a corporation and a peer. The estate of the corporation was incomparably the more wretched. By a process familiar to many persons here, the estate of the corporation was alienated, and passed into the hands of many proprietors. At present, the peer's moiety has nearly all the poverty and misery. No one but a builder will improve heartily another man's property; none but insurance offices will negociate terminable annuities. The passion for land or house in fee is natural and in the highest sense advantageous to the community, but few can possess the privilege or develope the social benefits of the possession. Again, look at the effects of the same universal ownership in country places. In order to lower the rates in parishes of which they are sole owners, it is common for country gentlemen, and many of them are metropolitan philanthropists, to forbid the building of cottages, to suffer those which exist to fall into decay, and in many cases to pull them down. I need hardly say that the condition of the poor in many agricultural districts is miserably bad, both morally and socially. I need not say that it has occupied the attention of many in this Association. But I do not remember that persons have ever assigned to primogeniture and strict settlement a considerable portion of these miseries. My attention has been called very painfully to the fact, for I have been curate of a parish for seven years, which is, in the language of the poor-law board, called "open," but is surrounded by other parishes, most of which were tied up by the terms of a strict settlement, or at least in course of being. Here, certainly, as far as external causes contribute to moral degradation and social wretchedness, the peasantry of that parish were largely demoralised by the prudential precautions of the neighbouring gentry.

Is it possible to conceive that the market value of railway stock would have stood at its present and probably permanent rate, had it not been for the opportunity given to the landowners to drive hard bargains with the projectors of these undertakings? We and our children's children will suffer in high fares and scanty conveniences, because at least one-third of the prime cost of these great national works has been contracted in order to bribe landowners and to fee advocates.

Although I feel strongly how unnatural and how unfair it is that an existing generation in behalf of particular interests, should bind posterity to sanction and maintain the acts of dead men, and cripple the energies of the living—although I am convinced that a host of miseries, inequalities, and moral and political evils can be not obscurely traced to primogeniture and the power of settlement, and that any possible good of the system is counterbalanced a hundred-fold by the unquestionable mischief to which it gives occasion—I do not argue as some persons do, and as is regularly asserted by ignorant or interested advocates all do who object to the present system, that land

should be forcibly subdivided, either by direct invasion of existing interests, or by abolishing the privilege of devise. But it is one thing to take away the right of disposition by will of that which an individual has acquired or inherited, another to confer large powers on testators of binding posterity. Surely it is enough to allow persons to devise in absolute ownership. The law limits gifts in mortmain, not we may be persuaded for the absurd cause which forms the preamble to the so-called "Mortmain Act," but because this form of tenure, if at all extensive, is open to grave economical objections. But a strict settlement is virtually a tenancy in mortmain.

It is not, indeed, clear whether the English law does not more completely fetter the real privilege of devise, than the French does. By the latter a portion of an estate is always at the testator's discretion. But the English law by laying such emphasis on the interests of heirs, virtually compromises the freedom of a testator. If a man have no lineal descendants, and no near collaterals, and being ignorant of remote ones, or indifferent to them, employs the liberty of alienation in favour of strangers in his will, it is ten to one that some low attorney will hunt up the heir-at-law, and successfully question the testator's sanity.

Mr. M'Culloch, the only economist of the present day who has defended primogeniture, employs two familiar arguments in favour of it. They are that the custom of bestowing the whole of a deceased person's real estate on his eldest son, to the exclusion of his other sons and daughters, secures the existence of a large body of men who give a tone to society, and maintain a true subordination of rank; and that the compulsory poverty of the younger sons is a powerful stimulus to exertion. Mr. M'Culloch is probably too good an historian to assert, as some people do, that we are indebted for our political liberties to the landed aristocracy of this country.

But both Mr. M'Culloch's arguments are false, or, at least, irrelevant. It is doubtless true that there are many English noblemen and great landed proprietors whose characters are deserving of all praise, and whose social influence is used for good. I am far from denying that such persons do services to society which could not, perhaps, be secured, or even expected, were the vast estates which they possess distributed instead of being accumulated, though I should be as far from admitting that they can lay claim to all the good influences which affect us. But there is a reverse to the picture. One side of the shield may be gold, but the other is of the basest metal. It is not rarely that we hear of men in this exalted station whose life is a mere orgie shared by harlots and jockeys. With many more the possession of such wealth is the excuse for a continual career of the emptiest frivolities. With some it is the material from which to gratify the most insolent caprice. And there is nothing so mischievous to public morality as the existence of a large body of men whose social influence is necessarily large, whose position enables them to defy the wholesome correction of public opinion, and whose follies and vices are habitually excused

on the plea of the boundless liberty which is given them of indulging their passions.

Neither is it true in fact that the destitution of a younger brother is a spur to exertion. Luxury during a father's life, and narrow circumstances after his death, are, I should think, the weakest among the secondary causes which might incite to industry. We learn on, I suppose, good authority, that such younger brothers are too generally the idlers at clubs, and the purveyors of the streets. It is asserted in public journals, and it forms a great part of the plots of novels. And though novels have fiction for their incidents they cannot sin against probability.

But even if the victims of primogeniture were ever so industrious and energetic, the system cannot in any fairness claim the merit. There is no lack of industry in the United States, where no primogeniture exists. A Frenchman's activity may be misdirected and narrow, but it certainly exists in great intensity. I have never heard that the devotion of a Belgian or a Hollander to the pursuit of gain, the industry which Mr. M'Culloch, I suppose, means, is languid or interrupted. There is no lack of energy in the British colonies, where primogeniture is exploded. Nay, one great reproach against these so-called dependencies, is the existence of a passion for gain, so keen as to induce in them an earnest demand for the support of the mother country in the unscrupulous eagerness with which they occupy the property of their less civilised neighbours. It is too much to say that the notorious energy of the Anglo-Saxon character is to be ascribed to a system which takes away the necessity of energy from a few, which discourages energy in others, and which cannot come within the ambition of the great mass of hard-working industrious members of society.

There is reason to believe that this accumulation of real estate in the hands of a decreasing number of proprietors is going on with great rapidity. With very little variation in my route, I could travel through the whole of one large English county, and a half of that which is next to it, on the land of only three proprietors.

Even if this accumulation were due to natural causes, and not to a protective anomaly, it would, to judge from the past history of political events, be fraught with danger. Privileges shared by few, whether the privilege be the creation of law, or the incident of a succession of facts, are always dangerous to the possessor, and odious to those who do not share them. In an age of violence, they are invaded by force. In a state of society, ultimately the only alternative to an age of violence, that in which change or reform are orderly and regular, they are not less invaded. Then they can be retained only by some compulsory sacrifice, as political insignificance or ostracism, or insulation.

It is the business of lawyers in case public opinion declares unmistakably against primogeniture and the privilege of strict settlement to provide a remedy. That which could be supplied for the former custom is obvious, the universal establishment of the cus-

tom of gavelkind in cases of intestacy over all property real as well as personal. For the latter, it does not seem that any hardship could arise were the powers of testators confined to granting estates in as large ownership as they possess themselves. But the legal remedy is a question which it is not necessary or expedient for the writer to dwell upon.

The Landowner in relation to the State. *By* J. T. DANSON, *Barrister-at-Law.*

IN this country all title to land rests upon the law. The law may be said to be determined by the sense of expediency prevalent in the legislature, for the time being. And this sense of expediency is, in turn, the aggregate result of the various influences operating in the formation of public opinion. Foremost among these influences are the avowed opinions of the abler writers and speakers of our time; and these, as of late made known, have been, to some extent, opposed to the right of private property in land, as at present established. In the presence of the objections thus urged, and with deference to such force as they possess, I propose to consider what is, with us, practically, the basis of title to land; and by marking, as precisely as may be, the principles on which it rests, to afford some aid towards that consistency which affords the best security at once for the justice and the permanence of our legislation.

The ultimate basis of title is, obviously, to be sought in the relation of the landowner to the State. What, in the abstract, this relation ought to be is not in dispute. It is agreed that it should be such as, for the time being, may be found most conducive to the common weal. What it is, and how far, practically, it conforms to or departs from this standard, are questions the answers to which will be best sought by reference to the facts.

Let us then consider of what the landed property of this country consists, and by whom it is held? And to this end, let us confine our attention, for the present, to England and Wales, because, as to this part of the United Kingdom, the requisite *data* are more easily obtained and verified; and, in point of principle, it is sufficient to bring the whole subject to view.

The extent of the land may be taken at 37,300,000 acres. It is inhabited by about twenty millions of persons.

First, we have to observe that the value of the land, in different places, is extremely various. The market value of the fee-simple in some places does not exceed a few shillings per acre, and in others, in and near the centres of some of our large towns, it reaches £50 or £60 per square yard, or say £250,000 per acre. And, in general, this value varies with the density of the population.

Next, we observe that it is not all private property; and, thirdly, that a considerable part of the land has, from time to time, been, and is still being, withdrawn from private ownership, vested in the

State, and applied to uses of which every inhabitant of the country can equally avail himself; and this for the sole reason that it is required for the benefit of the community at large. Then it will be observed that what is thus set aside for public use is everywhere commensurate with the actual or expressed wants of the public.

The highways may be estimated to cover, at this time, about 560,000 acres;* but the space so covered is extending day by day, with a motion closely analagous to that of natural growth. Canals and railways, though constructed and used by joint stock companies for their own profit, fall, as to the land they occupy, into the same class.†

The land set apart for canals, if their length be taken at 2,500 miles, and the average width occupied at fifty feet, will amount to about 15,000 acres.

The railways of England and Wales, taken at the end of 1863, at 8,500 miles in length, and an average width of 100 feet, occupied at least a hundred thousand acres.

Thus, in the country, the roads, including highways, canals and railways, appear to occupy about one acre in sixty. But in the towns, the public streets and places occupy much more; and the proportion cannot be taken at less, on an average, than from one-third to two-fifths of the area of each town. Where the land is, for private purposes, most valuable, it sometimes amounts to one-half.

The increased value of the land when covered or surrounded with buildings has already been noticed. The proportion of this more valuable space withdrawn from private ownership for public purposes can only be estimated by reference to the area covered by the towns themselves. And this can be arrived at only by estimate.

The Registrar-General, in the census of 1861 (vol. iii., pp. 100–104), gives 781 as the number of "towns" in England and Wales. But this includes many small towns, which might rather be called villages, and to which the remark I have just made might not be deemed fairly applicable.

I had occasion to ascertain, a few years ago, the area covered by the fifty-three "towns" registered for the two counties of Lanca-

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* The turnpike roads, taken at 25,000 miles, and an average of thirteen yards wide, give about a hundred and twelve thousand acres. Other highways, at 120,000 miles, and an average of ten yards wide, about four hundred and fifty thousand acres. Country highways usually have assigned to them more ground than turnpike roads: but I take the space used and maintained as roads, and regard the remainder rather as common, it being so used.

† The land has been, by the legislature, withdrawn from private ownership, and set apart expressly for the public use. The tolls leviable are limited by law; and the receivers of the tolls hold their rights subject, at all times, and in a particular manner, to the approval of the State. And whether a road, as a turnpike road, be managed by the neighbouring landowners, in the capacity of trustees, stimulated by their interest in maintaining good roads, chiefly to and through their own land, or by a public company stimulated by the hope of good dividends, the relation of each party to the State would seem to be, as far as the present subject is concerned, the same. In other countries we do see, and in this country we may see, the railways held and managed directly by the State.

shire and Cheshire by the census of 1851. In doing so, I added to the definition of the Registrar-General the condition that a minimum of 2,000 inhabitants should not be scattered over more than about 180 acres of ground. I found the total area to be about 67,000 acres. On this space there was living, at that date, a total of 1,610,000 persons, giving an average, including streets, &c., of about twenty-four persons to the acre. It will be observed that the minimum density required was about eleven persons per acre. The density was found to increase, generally, as might be expected, with the size of the town; and the highest density was found in Manchester: forty-one persons per acre.

By the census of 1861 it would appear that the "towns" of Lancashire and Cheshire covered 151,699 acres, and those of all England and Wales, 1,913,945 acres. But of the 781 towns here included, only 72 had so many as twenty thousand inhabitants; and I am disposed to think that the towns of two thousand inhabitants and upwards, did not cover more than about one million two hundred thousand acres.

If one-third of this be set apart as occupied by streets and public places, including wharfs, docks, and parks, we have 400,000 acres to be added to the space already allotted to roads, canals, and railways. Thus we have a total of about 1,078,000 acres,* a great part of which has already been withdrawn by the State from private ownership, and permanently devoted to public purposes; and this area is being, year by year, increased with the progress of our wealth and population. True, the extent of the land so used is not very great, nor is it increasing with very great rapidity, but it marks conclusively *an active principle* materially affecting the ownership of land. The process by which the transfer has been and is being effected, illustrates the basis of private title.

The area still held as private property may be taken at about thirty-six millions of acres.

Now, who are the private owners of this land? This we have at present no means of ascertaining, even approximately, with any degree of precision. The "landowner," pure and simple, as he seems most frequently to present himself to the imagination of the theorist, is, we have reason to believe, somewhat rare. I mean the owner in fee simple, who occupies just what he owns. It would seem that such men are rare because their condition has, on the one hand, become inconsistent with a judicious and enterprising pursuit of profit, and on the other, cannot be made subservient to the only other motive which in this country leads to the owning of much land: the maintenance of the hereditary dignity of a family.

* Roads	560,000	acres.
Canals	15,000	„
Railways	103,000	„
Streets, &c....	400,000	„
	1,078,000	„

Here we touch, involuntarily, the vexed question of peasant proprietorship. But we cannot enter upon it. It must be sufficient to state as a fact, that, with us, small farms do not generally pay, even when the farmer owns the land. English experience has, of late years, been held to prove that the first requisite to good farming (the land and the capital being supplied) is adequate skill and attention on the part of the farmer. And this requisite is held to be wasted if applied to a breadth of land much less than what the farmer can well look after. If he owns his own land, and its extent be 100 acres, and the freehold be worth only £30 an acre, he sinks £3,000 in the land: at least three times the amount of capital required to work it. And such is the competition in this country among those who desire simply to own land, that he cannot hope to realise, as owner, upon this, the market value of his land, so much, on an average, as 3 per cent. per annum. But 10 per cent. would be a very moderate return on the same amount invested not in, but on, the soil. And if he could manage three or four hundred acres as well as 100, it is clear that by selling his 100 acres, and taking the position of a tenant, as to a larger farm, he would invest his capital to much greater advantage. In any event, by keeping his capital invested in the land, he must work at a disadvantage, in competition with other farmers of equal or even smaller means. The pressure of this disadvantage wherever it is felt, has, for some time past, been gradually driving out of existence the remains of a class of small freeholders which, a century ago, particularly in some of the northern counties, not only existed, but in some sense flourished; and whose condition in the past, as now regarded with the effect of distance, has given occasion to some not very well considered regrets at their departure. Science offers much aid to modern farmers, but the best of this aid is offered on conditions the small farmers cannot comply with.

The truth is that owning land to be used in agriculture, is now, as a rule, very expensive—far too expensive for those who invest capital for profit. It has become a luxury; and is, therefore, very generally, and very naturally, left to those who can afford it—to those who are willing to accept a small return upon their capital in view of the social dignity and the local influence commonly enjoyed by those who own much land. Doubtless, there are among those who own much land many who well understand farming, and some who practise it with success. But they take to it as a pastime rather than for profit. They give orders, and they find the money, and sometimes they use skill enough to get their amusement without paying very dearly for it. But, as a rule, the farming of the country is done by the men to whom its profits afford a livelihood, or by farm-bailiffs who do, all through the year, the work which affords occasional amusement to their employers. To such men the owning of land in fee is found to be a losing game.

Then what shall we say of their landlords—of the landowners, especially so called—who, with ample wealth and leisure, seek, in the life of a country gentleman, the highest form of existence yet discov-

ered by Englishmen,—who are content, in order to secure what they seek, to invest (or to keep invested) large sums in land returning from 2 to 2½ per cent. per annum on its market value. For these are the men most commonly referred to when the theorist refers to landowners as a class. These are, undoubtedly, they whose possessions are apt to excite, in the minds of the landless, doubts of the justice of our land laws. But are they entitled to be regarded in any exclusive sense, as the owners of the land of the kingdom? Do they realise, in any satisfactory way, the ideal of the theorist? As we all know, they do not usually occupy much land themselves; but, what is more to the purpose, it is seldom that they can, in any but a limited sense, be said to be the owners of the land over which, for the time, they exercise a landlord's control.

In a very large majority of instances, and in every instance of large estates retained for several generations in the same family, the ostensible owner has only a life interest. And even this life interest is commonly subject to other interests, created to secure the payment of jointures, mortgage debts, and other charges.

The possession is with those who till the land; and to them goes a large share of its produce. It is seldom that all the rest remains with the nominal owner; and for the dignity of his nominal ownership, as we have seen, he pays a high money price. Add to this price the dangerous envy of the ignorant many, and the price may perhaps be deemed much too high. But the apparent owner is often only the first and most prominent of several owners sharing the rent. And if the occupying tenants have leases, or any equivalent interest, —as, to farm well, profitably, and safely, they must have,—they, too, are among the real owners. So that any attempt to trace the actual ownership of the land used in agriculture, and to define accurately the class owning it, brings us into contact with a body of persons far more numerous and various than might, at first, be anticipated. And the closer our examination, the surer are we to find many of these owners in the mercantile, rather than in the so-called landowning world.

The census of 1861, in its list of occupations, gives 30,766 as the number of "land proprietors" in England and Wales. But it is well known that, as a rule, those persons only have described themselves as "land proprietors" who had no other occupation. Accordingly, we find the greater number of those so described (15,635) were females. Here, then, we have clearly no indication of the number of persons owning land. And if, passing from the country to the town, it be remembered that land is greatly increased in value by being built upon, and that it is never built upon, to any great extent, without being divided into small parcels, and among owners of whom probably not one would describe himself as a land proprietor, the inadequacy of the census return becomes the more obvious, not to say glaring.

As we have seen, the land occupied by the towns is in extent comparatively small; but in value it is comparatively great.

The income derived from landed property, as assessed to the income tax, in England and Wales, for the year 1863, was upwards of £120,000,000 sterling. This takes no account of the incomes under £100 a year, and so not charged; and I need scarcely say that this tends to exclude much property in the towns, and but little in the country. It also excludes much property in towns which, being of a public character, is not assessed. The proportion of this amount drawn from land used in agriculture, and for all other purposes of a rural description, probably did not exceed one-third. This is readily shown. It is commonly supposed that of the entire area of England and Wales not more than about 29,000,000 of acres are submitted, in any degree, to cultivation. But if we take the whole area, allowing a million of acres for the towns and roads, and allow an average rent of a pound sterling per acre, we have a total of only £36,000,000. And if we allow, for tithes, mineral rents, and all other proceeds of a similar character, the ample amount of four millions more, we have but a total of £40,000,000 a year. This leaves £80,000,000, or twice that amount, for the income derived from the land already withdrawn from agriculture and devoted to dwelling-houses and offices, manufactories, wharfs, docks, canals, railways, and other erections, constituting, serving, or connecting our towns. But the mere ownership of any part, however valuable, of the vast mass of landed property thus built upon confers no local dignity or influence. The "landlord," in a town, whether he be the ground landlord of acres of buildings, or only the leaseholder of a furnished house, who in a semi-menial capacity waits upon his tenants, has only a mercantile connection with those from whom he receives rent. Here pride has no conspicuous gratification. Profit only is regarded. Hence such property pays a higher rate of profit. If we take this rate, as regards the landlord, at 5 per cent. or double the rate derived from land employed in agriculture, the eighty millions of income assessed will be observed to represent an equal market value. In other words, the land covered by the towns, small as is its comparative area, is already as valuable as all the rest put together. Yet, in common parlance, and in the language of most theorists, the one is much regarded, and the other very little. That the buildings form, in the one case, a very large proportion of the property, marks only a difference of degree. There can be little if any land now used in agriculture within the United Kingdom, which does not owe some part of its letting value to such erections; and it is well-known that as a rule, the value of such land varies much more with the investments upon it in roads, drains, fences, and buildings, and its proximity to a town, where such investments are still greater, than with reference to any natural quality it may possess. Land is not, after all, more necessary for a field, than it is for a factory; and to whatever use it is applied, the capital sunk in or upon the land must be held by the same title.

To return, then, to the number of our landowners. If we consider

how many persons are directly interested in the land of the towns as well as of the country, it becomes obvious that we can hardly stop short, in enumerating "owners," till we have included all who have any capital invested in a fixed form, or, in other words, almost every person in the country who is engaged, directly or indirectly, otherwise than as a mere servant, in any department of its business. A few vast estates may indeed be put, conspicuously, at one end of the scale; but at the other we find innumerable plots, basing offices, or workshops, where the square yards of the workman, professional or mechanical, are worth more than the acres of the farmer. Between these extremes, how endless the variety of properties in land, as to extent and use. And from one end of the scale to the other, how numerous, how various, and how widely distributed, are the interests, direct and indirect, in the land and its proceeds.

Now as to the title of the private owner of land. That of the owner of personal or movable property is obvious enough. Society has conceded to each of its members a right to dispose of the fruits of his own labour. Land is observed to be useless to man till he has incorporated with it some of the fruits of his labour, and the more abundant, and the more permanent, this incorporation becomes, the better for the community at large. Accordingly a similar right has been conceded to those who have improved the land.

But it is said that the private appropriation of land amounts to a species of "monopoly," inasmuch as land is limited in quantity, and its possession by any one person necessarily excludes all others. I admit the premises; but I deny the conclusion. Exclusive possession of land is no more a monopoly, on these grounds, than exclusive possession of gold. For instance: Let A hold an acre of land, and B a pound of gold. Let C, alleging that the earth is "the common inheritance of mankind," claim to share the land. A may admit the allegation, but deny the claim. On the same ground, all mankind may claim; and neither A nor C have a title; nor is there any State on earth competent to enforce the claim of the co-owners of A. But A, by the laws of his own State, and of all others, may point to his tillage, and his fences and buildings, as evidence of labour bestowed on the land, whereby the land has been made available to mankind, and of his consequent right to retain possession of it, till the State shall order otherwise, and pay him its present value.

Let D, in like manner, claim of B a share of the pound of gold; and the answer is precisely the same. The gold, as a mineral, formed part of the earth: the "common inheritance." Either its owners are innumerable, and are not to be produced, or there is but one. B may adduce the fact of the gold being in his possession, as evidence of labour in making it available to mankind, and so of his right to retain possession. The particular acre, and the particular pound, are held by precisely the same right. Labour has separated them from the unappropriated land, and from the unappropriated gold, of the world, and made of them private property. There is

more gold of the same quality, to be had at the same price: the labour of making it available. There is more land, also, to be had at the same price: the labour of making it available. The title to each is the same. And so each is the subject of a monopoly, or neither.

Yet A did not make the land, nor did B make the gold. There is, in the world, a limited quantity of each. And while A retains possession of the particular acre, and B of the particular pound of gold, no one else can have either.

Wherein, then, consists the difference, quite apparent, between the land and the gold, whence has been deduced this notion of "monopoly," as regards the land? In this, and this only: that the land has *a fixed locality*. Locality is, as to land, the chief, and indeed almost the only, basis of value. Fertility is of far less consequence, in any case; and, in many cases, is of no consequence at all. One half, in value, of the landed property of England has its value wholly irrespective of fertility; and owes its value entirely to locality. And, as to the whole of it, its fixed locality makes it inherently and unalterably national. To superficial observers this gives to its possession the aspect of a monopoly. But under this appearance there is no reality.

The practical results of the concession of private property in land are, in this country, more fully developed than they are anywhere else in the world; and the uses of the land are proportionately various and valuable. Here, as elsewhere, it produces vegetable and animal food, it affords space and support to means of locomotion, and to buildings conducive to pleasure and to profit; it affords means of recreation; and it imparts dignity and rural influence to those who own it in large quantities. But it does all these things in greater variety, and more efficiently, than elsewhere. And why? Obviously, because with us, the capital sunk in the improvement of the land, in proportion to its extent, is far greater in amount, and is applied with more experience, more skill, and more enterprise, than is available in any other country in the world. The improvement of the land, though not what it might be, has advanced in some measure with the general progress of the nation.

And if it be asked how the land came to be fitted for, and to be successfully applied to, so many and diverse, yet reconciled uses, or, in other words, how it was brought into a condition thus to maintain in activity, in abundance, and in harmony, a numerous and civilised population, the answer is—that all this has been done by the investment of capital in the land, under the stimulus of private interest, by conceding the exclusive possession of the land to individuals.

To describe the first step in the process is to point to a principle of human progress hardly less obvious than the progress itself. It is a condition precedent to any use of the land implying the bestowal of labour upon it, that he who so bestows his labour shall be assured of the undisturbed possession of the land in question, until he shall be able to recover the fruits of his labour. Compliance with this

condition was essential to the beginning of agriculture, and it is no less essential to the prosecution of it, or of any other occupation requiring a fixed possession of land, at the present hour. In this principle we find the original justification of private property in land: the basis of the title. And in the same principle we find the limitation of the title. The concession was, at first, conditional on improvement. And this condition is not only primary: it is perpetual.

Regard to the common weal, which began the title, may also end it; and, in fact, it often does so. If my land lies across the line of a necessary public road, I must give up possession; nay, even if it be made apparent to the State that the public good would be promoted by a transfer of my individual right to other individuals—as to permit the construction of a dock, or other work, to be employed for the accommodation of the public, though also for private profit,—then, also, I must give up possession. In either case, however, the present value of the land, and of all that is erected upon it, is assessed, and paid to me. The implied contract between the State and myself is thus closed: the State resuming possession, and paying me, in the market value of the land, the apparent value of the improvements made on the faith of this contract.

The same principle evidently underlies the entire extent of the discussion which, in different parts of the United Kingdom, and in different shapes, is now being carried on respecting the terms of agricultural tenancies, and the nature and extent of what is called "tenant right." An intelligent use of land, with adequate means, and with a view to profit, almost inevitably results in a permanent increase of its value; and, if this be not allowed for, in the relation between owners and occupiers, the relation must often involve a form of injustice analogous to that of which the landowner himself would complain were the State to resume possession of his land without paying him its full market value.

Whether the condition that the land shall continue to be used in such manner as may best promote the interests of the community, might not be better enforced, is, just now, a very interesting and pertinent question. The condition is undoubtedly attached not only to the original concession, but also to the present continuance, of private property in land. Its enforcement has hitherto been left to the stimulus of private interest. But private interest does not always prompt men to the pursuit of profit; and what it does prompt them to is not always very clearly for the public good. Land in the United Kingdom is often held, for instance, rather to feed the pride of its owner, than for any other apparent purpose. Here it may be said that private enterprise fails in its office; and perhaps the State might justly step in and supply the defect. But our Government is not well adapted to supersede private enterprise, however defective or futile its action. Nor is it even fitted to pronounce, with authority, when particular owners are not making a sufficiently good use of their land. All such im-

provement involves the investment of capital; and we have in this generation, taken much time and trouble to assure ourselves that laws interfering with the investment of capital must be either useless or mischievous. Nor is it quite clear that this flaw in our system—if, all things considered, it be one—is traceable to a defect in the action of the State.

If wealthy men, seeking worship, find it most easily, and most abundantly, through the holding of much land—even of more land than they are disposed to take care of—the buyers of such worship, risking, as they do, a breach of the condition on which they hold their land, may be wrong; but they, far more numerous, who tempt them to the wrong, by rendering the worship, have no very clear right to complain of the consequences. And however this may be, the origin of the evil lying rather in the drift of public opinion than in the action of the law, it is by no means clear that any change in the law would cure it. This, however, is a question to which I shall have occasion to recur presently.

I have now to consider the *objections* offered to the existing relation of the landowner to the State. They fall into two classes: first, those denying its justice in the abstract, and second, those finding fault with its apparent effect.

Where its justice is denied, it is so always, more or less openly, on the old ground that the earth is the common inheritance of mankind. To this it may be sufficient to answer that the value of the inheritance is in its use; and that apart from private appropriation, and with such exceptions as have already been marked, mankind have not yet discovered any desirable and practicable method of bringing it into use. If it be replied that this mode of appropriation is carried farther than is necessary to effect the desired purpose, the discussion is tacitly brought within the limits of the second form of objection; and the argument against the present system is placed upon the same ground as the defence: that of present expediency.

Let it then be admitted on the one hand, that the State has, for the common good, permitted a few to take that which, before the State existed, belonged, if it could belong to any, equally to all. On the other it must be conceded that what was so taken, does not include any part of what has been added to the land, or to its value, by human labour,—or by capital, which is but labour accumulated.

The argument, thus stated, resolves itself, in the hands of the best authorities, into a suggestion,—first, that the land had some value prior to its appropriation, or that it has now some value distinct from the value thus attached to it subsequent to its appropriation; and secondly, that the State on behalf of the community at large, may now justly reclaim from the landowner such portion of his property as may be equivalent to the supposed original or natural value.* But

* This view of the subject may be traced, in our time, notably, to Mr. Ricardo's definition of *rent*, as "that portion of the produce of the earth which is paid to

there seems to be a difficulty in giving to this suggestion a practical form. Disturbance of the possession, as now held, unless to realise some manifest public benefit, and then only on payment of the present market value, is not proposed. Nor has any definite proposal ever, so far as I can learn, been made for assessing the assumed natural value of the land. That land differs from other property in occupying a fixed locality, from which locality its appropriation must needs exclude, in some sense, all mankind, except its owner, is obvious enough. But from this fact nothing to the purpose has hitherto been deduced.

Mr. Mill, who may be regarded as the ablest of those who have handled this question, and who cannot be deemed unduly favourable to the landowners as a class, leaves undefined the original or natural value of the soil. But by way of restoring it, or its equivalent, to the community, he proposes to levy such a tax upon rent as would bring into the coffers of the State, for the common benefit, the whole, or a portion, of "any future increase in the value of the land arising from the mere action of natural causes." He accompanies this, however, with the condition that the imposition of any such tax shall carry with it, as an alternative, a tender of the present market value of the land. And as, with this condition, there can be no doubt of the right of the State to make any disposal whatever of the land, the proposal cannot be said to affect the title.*

The *practical* objections, recently urged, seem to be three :—

I. That under our present system, the ownership of land is being, to a greater extent than it used to be, gathered into few hands.

II. That the agricultural labourer hardly ever owns land, and so is "severed from the soil ;" and

III. That the large estates of the country being commonly held in strict settlement, the owners are often deprived of the power duly to improve the land.

These objections, it will be observed, are applicable only to land used for agricultural purposes ; and therefore to not more than about half, in value, of the land of the kingdom, as regards England and Wales.

As to the first objection—that the land of the rural districts is passing into fewer hands—assuming it to be so, it can only be attributed to the ordinary action of supply and demand. Those amongst us who have the desire, and the means, to hold large estates, paying

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the landlord for the use of the original and indestructible powers of the soil," and subsequently to the opinions avowed by Mr. Mill in his "Principles of Political Economy," Book II., chap. ii. sect. 6, and applied in the same work, Book V. chap. ii. sect 5.

* Otherwise, it might be expedient to consider, with some care (1) what Mr. Mill means by "natural causes ;" (2) whether the State, if entitled to take any increase of value arising from such causes, is not, correlatively, bound to make good any decrease of value arising from the same class of causes ; and (3) why fixed capital, which happens to be connected with the land, should be subject to such curtailment of the ordinary chances of profit, if other forms of fixed capital be exempted.

less than 3 per cent. per annum on their cost, are few. But such a desire being common among wealthy men, and wealthy men being now more numerous than they were, the demand for large estates has no doubt increased. If small holders think fit to meet the demand by selling, they are at liberty to do so; and it is by no means clear that this liberty can in any way be taken from them. The only remedy seems to be a reduction of the demand. Yet we do not desire to have fewer rich men amongst us. And, in the present state of public opinion, it does not seem likely that, to such men, large landed estates will soon cease to be primary objects of desire. Finally, it is, as yet, rather assumed than proved, that large estates are not as beneficial to the community as small ones.

The second objection amounts to an assertion that the law should be so amended as to enable agricultural labourers, in particular, to own plots of land in fee. Is this, however, really desirable, or practicable? Of all the facilities for improving his condition which can be offered to an intelligent labourer, I venture to affirm that none is so valuable as that which enables him to carry his labour to the best market. Perhaps the next best is that which enables him to invest, at once safely and profitably, and so as to be readily available, the little capital his industry and self-denial may enable him to accumulate. Now "attachment to the land," by owning and cultivating a bit of it, diminishes for him both these facilities. It fixes him to one locality for the sale of his labour; and it affords him for his savings the form of investment which, of all others, yields the smallest return, and from which it is most difficult to withdraw money quickly. Give to a labourer a bit of land in fee simple, and, precisely in proportion to his intelligence, will be his desire to sell it, and turn its value to better account. It is, perhaps, not too much to say that attachment to the land, for those who must live by their labour, could only be effected in this country, by serfdom, or some condition closely analogous to it.

The third objection, to the system of family settlement, has considerable weight. The system is objectionable, even in theory, as intended to make, and keep, wealthy families, the members of which may not possess the qualities which enable men to retain wealth. The retention of wealth ought to be the reward of appropriate conduct. The system of family settlement, were it effectual, would retain wealth in particular families wholly without reference to such conduct. Further, the elaborate restraints it imposes on the hypothecation or alienation of land has locked up much of the land of the country in the hands of persons who have not capital to improve it with, and who, when they might employ to this end the capital of others, are often deterred from doing so by a mistaken sense of dignity. When means of production, other than these settled estates, are found apart from the will or the ability to turn them to profitable use, the remedy is easily found. Capital, meeting adequate security, is invested, and the resulting profit is shared upon principles well understood and readily adapted to every variety of

circumstance. But he who is about to sink his capital in the land of another, looks for assured possession of the land for a term long enough to secure the return of what he shall sink, with a profit sufficient to tempt him to the venture. He must, for that term, be the real master of the soil. And the sense of dominion which is gratified by landowning is apt to be offended by such mastery in a tenant. It is true that this is the only way to profit: but where profit has yielded to pride in the terms on which the land is acquired and held, mere profit cannot be expected to rule its use. And where profit would be so sought, the needful power of disposal is very commonly wanting. The tenant for life has but a fleeting tenure, and sometimes cannot, within the terms of the settlement, give the tenant a lease adequate to the required outlay. Here, then, we find the settlement system operating, as respects the improvement of the land, much in the same way as the insecurity of property is observed to operate in a much earlier state of society. The very class which, by protecting the tillers of the soil, gave them assurance of the harvest, and so promoted agriculture, when short tenancies only were needed, are now found positively obstructing the progress of agriculture, by rendering the capital of the tenant insecure. The landowner, prizing the mastery of the soil rather for show than for use, withholds it overmuch from the tenant; and in order to perpetuate the possessions of his family, without relying on the conduct of its future head, so ties up his own hands, and those of his successors, that though the land, for the dignity of the family, must needs be kept, it cannot, for the good of the community, be improved.

As to a remedy—the State has, occasionally, in time past, interfered to limit the power of landowners in settling their estates; but only when this power has been so exercised as to become very palpably prejudicial to the public weal. These occasions have been few; and it is manifestly not desirable that they should be frequent. Whether the power of disposition be exercised by deed or will, it is difficult to devise any mode of making it less, which shall not, by diminishing the market value of landed property, tend also to check precisely that which we seek to promote—the investment of capital upon or in connection with the land. Whatever is sunk in the freehold, thenceforward shares its conditions, and, if a diminished freedom of disposal become one of these conditions, it may well be apprehended that such investments may be checked. This is not desirable, as regards the community at large.

We have already, in view of the evident and permanent value of such improvements as draining, given power to life-tenants to raise, by a charge beyond the limits of their settlement, what is required for such purposes. And capitalists, promptly recognising the opening to profitable investment afforded by such charges, have formed joint stock companies to supply the requisite means, within the limits of the new law. But all such measures must needs be, in the beginning, tentative, and in the end only exemplary. Further, they

must be exceptional. It is not within the proper office of the State, as defined in this country, to discover how this or that class of capitalists may have their condition, present or future, improved, and to supply, by the removal of self-imposed fetters, and by the ingenuity, and on the responsibility, of Parliament, the needful facilities for all such improvement. And our present respect for the position of the landowner would be seriously diminished were it made apparent that, in lieu of acting as a warning of the impolicy of over-settlement, this measure had been taken as a warrant for the continuance of a system only one incidental result of which it was intended to provide for.

To conclude—of the efforts which have been, and are being, made, to facilitate the transfer of land, and thus to give better and more rapid effect to the intelligence of the community in dealing with landed property, I need only say that I rejoice in the prospect of their success. As to the great evils now arising from the use made of our law of entail, I look hopefully for any real cure rather to the progress of public opinion towards a better standard of social dignity, than to any legal enactment directly invasive of the power of disposal now conceded to the landowner. And, as to the changes recently proposed or suggested elsewhere, with a view to altering the distribution of the land by law, I will only re-state in one or two sentences what I conceive to be now, and what I trust will long continue to be, the actual relation of the landowner of England to the State. His title is derived from the same principle as the title to all other property: that which awards to every man the fruit of his labour. The fixed locality, and not, as is commonly supposed, the limited quantity, of the land, gives to its appropriation the appearance of a monopoly. But all that has yet been said upon the subject has, in my opinion, failed to fix upon it the reality of that character.

Undoubtedly, landed property differs from other property; and the difference is such as to render its title less absolute, as against the State. But the difference does not end here. It is also to be observed that the land bears with it a permanent liability to the fiscal burdens of the State. It is, far more than any other property, identified with the general condition of the community. We have been somewhat loudly reminded of late, by those who are apt to deduce their principles rather from what they are most familiar with than from what is pertinent to the matter, that this identity of interest has, in the recent history of England, proved greatly beneficial to its landowners. But though the connection is permanent, it has varying conditions; and the policy of a nation should be equally adapted to its adversity and to its prosperity. When adversity does come, the land, and all that is connected with it, will have to abide the evil time, as it has thriven in the good. It must remain English to the last. The unfixed capital of the country goes now, and will always go, whither the security and the profit of the day may attract it. It is at the service of all states; serving each in proportion to its compliance with the economic laws ruling the distribution of

such capital. The land, with all that is attached to it, is, and must remain of the nation, to feed and house its people, and to bear the burdens of the State under all extremities. This is no reason for giving to the landowner more than justice; but it is a reason for care lest we give him less. Whence, even were the arguments advanced against the present system more substantial than they are, were they not traceable to too narrow a view of the relation of the landowner to the State, or to a misconception alike of the office and the power of the State, it would, I conceive, behove us very carefully, and even suspiciously, to consider any measure threatening the title to a description of property, the secure possession and the improvement of which not only so deeply, but so lastingly, concern the English nation.

Are the Laws of Real Property in the Three Parts of the United Kingdom respectively, in their Substance and Tendency, suited to the Present Condition of Society? and if not, How should they be Improved? By RICHARD DENNY URLIN, *of the Middle Temple, Barrister-at-law, Delegate from the Statistical and Social Inquiry Society of Ireland.*

THE distinction between real property and personal property, which pervades the law of England, is very suggestive. It recalls to mind a time when the possession of land was almost the only source of wealth, and the only source of distinction. All other property was then looked upon as comparatively valueless, and, in truth, comprised little beyond the ornaments, clothing, and furniture, appropriate to a rude state of society. Personal property increased as civilisation progressed. The laws by which it is regulated, have sprung from the wants and exigencies of society; and were not, like the laws of real property, based upon system or theory. Their course may be traced in connection with the historical events which favoured their development, and the social wants which shaped their details. The laws relating to personal property are, on the whole, suited to the present condition of society, and need not farther be referred to except for the purpose of contrast.

An uninitiated person might, if he were to indulge in speculations as to the origin of the distinction between real and personal property, be inclined to question whether land ought ever to have become, in the full sense, the property of any one. It seems as necessary as light or air; and what is indispensable for the existence of all, seems to be, at first sight, hardly fit for exclusive appropriation by a few. Further consideration may, indeed, lead the mind of the inquirer to recognise some right in those who have made the land more productive by laborious culture. But this would hardly involve the right of transmitting the ownership to an heir, or of selling to a stranger. These considerations have led some writers to question the justice of an appropriation of the land, and to urge the right of the State to

resume the ownership. Professor Newman denies "that the land is, or can be, the private property of any one," and affirms that the law which admits of such appropriation is "immoral and unjust; that no one could sell what was not his own, and that no number of immoral sales can destroy the rights of man."* Another class of writers, while allowing those rights of property which were even respected during revolutions, maintain that the interests of the state are altogether paramount to the rights of property. Mr. John Stuart Mill expresses this view as follows:—"The claim of the landowners to the land is altogether subordinate to the general policy of the state. The principle of property gives them no right to the land, but only a right of compensation for whatever portion of their interest in the land it may be the policy of the state to deprive them of."† At the risk of appearing to avoid a question which must underlie any system of law, I shall make no further reference to this discussion; and shall assume the justice and morality of an exclusive property in land.

The English laws of real property are grounded on the feudal conception of a sovereign, of chief barons, and of subordinate tenants yielding services or rents to feudal superiors. "In those disorderly times every great landlord was a sort of petty prince. His tenants were his subjects. He was their judge and in some respects their legislator in peace, and their leader in war. He made war according to his own discretion, frequently against his neighbours, and sometimes against his sovereign.‡ This description of the landowner of old furnishes the key to the real property law of England. The primary end to be attained was that each family estate should be represented by one warlike personage able to hold his ground against the pretensions either of his feudal superior, or of his neighbours. The tendency was to concentrate all the wealth and influence of the family in one representative. Every other consideration yielded to the necessity of maintaining a feudal chieftainship. It must be conceded that a body of law framed with such a purpose is hardly likely to commend itself in a wholly different state of society.

From modern society the feudal stamp has been almost obliterated. What of it remains is chiefly found in outward form and ceremonial, from which the substance has long since departed. The sovereign does not summon her chief nobles to the field in case of war. Battles are fought by means of standing armies; and war is a distinct profession. The chief landowners no longer from their loop-holed turrets scowl defiance or threaten invasion. They are amenable to law as citizens and subjects. Nor are they the only subjects possessed of wealth and influence. There are innumerable persons who have become enriched through mercantile or professional pur-

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* Newman, "Lectures on Political Economy," pp. 132-3.

† Mill, "Political Economy," Vol. I, p. 285. The question is also discussed in an article entitled "The Tenure of Land," *Westminster Review*, July 1864, p. 105.

‡ Adam Smith, "Wealth of Nations," Book III. chap. ii.

suits. The growing wealth of England yearly increases their number, while the territorial class remain stationary; and classes are not now separated as formerly, by nearly impassable gulfs. It is now a topic of frequent gratulation with statesmen, that the governing class is constantly recruited from the ranks of the people. It has become a standing argument for the maintenance of the peerage that aspiring commoners frequently become peers. If these representations be correct, they furnish an additional reason for the removal of all obstacles to a free transfer and diffusion of the land imposed in the feudal age, for the express purpose of keeping up a distinct and powerful class of warriors. If this interchange be beneficial to the community, it should be facilitated, and not hindered, by our laws. It is clearly for the advantage of the community that the landowner who is unable to fulfil the duties of his position, should make way for one who is prepared to do so. The out-going proprietor is then free to renovate his fortune in some other walk of life; while the new proprietor by investing his wealth in the purchase of an estate, aids in a process of welding and combining together the different interests and grades, which is the surest guarantee for the permanence of our institutions, and for the safety of the commonwealth. The conclusion is that a feudal real property law cannot be suited to a condition of society which is not feudal, and in which the sale and purchase of estates is, or ought to be, constantly proceeding. The diffusion of the land among new proprietors ought not to be hindered by artificial obstacles arising from ancient laws.

But land may be regarded not merely as a source of social and political influence. Its cultivation is one of the great industries of the empire. It is of moment to the community that cultivation should be as complete as possible, with all the aids that science can afford. It is a matter of some public importance that any given acre of land should, instead of yielding to an ignorant or careless occupier a produce of 20*s*., return to skill and industry a profit of £20. England may, when contrasted with some other countries, present a smiling and fertile appearance: but even England is not thoroughly and scientifically cultivated. The Flemish plains speak of more careful farming. Our greenest pastures do not impart that sense of unremitting toil which becomes familiar during a journey through the Alpine valleys. Some English districts of vast extent are marshy, others contain but poor shallow soil. Some appear chequered into small fields divided by thick banks and umbrageous hedges. In many places appear waste plots and wayside strips of common. All these are proofs that intelligence, labour, and capital might have been more fully employed. They are surprising to a stranger who only knows that this is a country of unbounded wealth and ample population, a country in which the ownership of land is universally desired, and can only be acquired at very high rates of purchase. It might be expected, in short, that every inch of this land which is so highly valued, would be assiduously made the most of. The explanation is to be found in the legal conditions

under which landed property is held in this country. Mr. Mill has thus summed up the artificial hindrances to the productiveness of land. "No improvements operate more directly upon the productiveness of labour than those in the tenure of farms, and in the laws relating to landed property. The breaking up of entails, the cheapening of the transfer of property, and whatever else promotes the natural tendency of land in a system of freedom, to pass out of hands which can make little of it, into those which can make more; the substitution of long leases for tenancy at will, and of any tolerable system of tenancy whatever for the wretched cottier system; above all, the acquisition of a fixed interest in the soil by the cultivators of it; all these are as real, and some of them as great improvements in production, as the invention of the spinning-jenny or the steam-engine."* Both Adam Smith and Mr. Mill have pointed out most clearly the causes which lead to the mortgaging of estates, and the impoverishment of many landowners.† Ireland has furnished in our own time a striking example of this tendency: and as it is a purely agricultural country, without the disturbing causes which in England arise from manufactures, foreign trade, and other sources of wealth, the effects can be traced the more clearly. In England the landowners are all more or less participators in the increasing wealth of the country, and therefore the tendency to which Adam Smith and Mr. Mill refer is counteracted by causes which unfortunately do not exist in Ireland. The Irish landowners as a class were encumbered with debts; and the ordinary machinery of justice proving inadequate, a special tribunal was created for the purpose of effecting sales and transfers of land.

One effect of the collecting into one ownership parcels of land, and transmitting them as one estate, after the feudal example, is that England is gradually falling out of lease, into the hands of yearly tenants. So far as the land included in the expired leases is taken in hand by the proprietor, the change will no doubt be a beneficial one, the most favourable condition being that the proprietor should also be the cultivator. A large number of the new proprietors in Ireland are persons who are farming the land purchased by them. But so far as leases expire, and yearly tenancies are substituted, the results must be more or less injurious to the progress of agriculture, and therefore detrimental to the community. The most eminent economists are of this opinion. Mr. Mill's words have already been quoted. Mr. M'Culloch declares that the system of giving leases for nineteen or twenty years certain, has been the main cause of the wonderful improvement of Scotch agriculture.‡ Adam Smith, who considered it "against all reason and probability to suppose that yearly tenants will improve the land," evidently

* Mill, "Political Economy," Vol. I. p. 227.

† "Wealth of Nations," Book III. chap. ii. Mill, "Political Economy," Vol. II. p. 474.

‡ Note to "Wealth of Nations," p. 175.

regarded a lease of twenty years as too short.* Probably the landowners feel that a yearly tenancy gives a more direct influence, political and otherwise, over the tenant. The tenant acquiesces because he is not burdened with covenants and obligations.

Another fact which must be regarded as an unhealthy symptom is this—the number of the owners of land is rapidly diminishing. When "Domesday Book" was compiled, the population, as recorded in its pages, was about 1,000,000.† Of this number, nearly one in twenty appear to have been landowners. In the year 1688, the population of England is believed to have been 5,500,000, of which number about 170,000, or one in thirty, were landowners. The census of 1861 showed that the yeoman class was nearly extinct. The population of England was found to be very nearly twenty millions. Of this number only 30,766 persons described themselves as landowners. Making a large allowance for persons returning themselves as engaged in other callings, although actually owners of land, it still appears that the proprietors are not so numerous as they were at the period of the Conquest; and that they are not in number equal to one-fourth of the proprietors of land in the year 1688. At this rate of diminution another generation will find that the names in each county will be capable of being remembered, or reckoned on the fingers. It is an unfortunate circumstance that the class of small freeholders farming their own land, has become extinguished or nearly so, just as the scientific agriculturists are discovering that a small farm may be managed profitably. Yet the extinction in many parts of the country of the yeomen proprietors is owing, not to their inability to live upon the produce of their farms, but to the high prices tendered by adjacent squires, anxious, at any outlay, to enlarge their estates. The tendency of the present system is, then, to extinguish the other grades of rural society, while it maintains the large landowners as a class, and under them an agricultural tenantry holding from year to year, and strictly dependent on their landlords. Lord Stanley, at the Southport agricultural meeting in August last, expressed a desire to see "a more thorough conviction that farming requires both capital and training." He declared that "farms of moderate size may be worked with all the appliances of modern skill and science." He also pronounced in favour of leases, and against the tenancy from year to year.

Turning to Ireland, we find that the yearly tenant there is in a worse position; for it is not customary for the landlord to erect farm buildings or make improvements; and the consequence is that what neither landlord or tenant is willing to do, remains undone. The only improvements (except in rare cases) are by proprietors who farm their own land, and by tenants who have leases. It is not true that the poverty of Ireland accounts for the miserable condition of its agriculture. Low prices have lately, as regards arable land,

* "Wealth of Nations," by Mr. M'Culloch, p. 175.
† Hallam, "Middle Ages." Note to chap. viii.

interfered much with the prosperity of agriculture; but there is still capital in abundance, could it be rendered available for the improvement of the land. If suddenly, all the tenants in Ireland found themselves possessed of permanent interests in their farms, it is probable that several millions of pounds now lent to banks at low interest, would be withdrawn, and actively employed in draining, fencing, and otherwise improving the soil. Mr. Mill has suggested that the Legislature might be justified in handing over the ownership of the land to the tenants, reserving to the landlords a rent-charge or yearly payment equal to the present rent. A proposition of the same nature has recently been made by Mr. Heron, Q.C., who considers that most of the evils which afflict Ireland would be remedied by a simple enactment that no tenant shall be evicted for any cause except the non-payment of rent. The proposal has not been favourably received. A very strong case of necessity must be made out before the rights of property can be so far abrogated; Mr. Mill's maxim that "the claim of the landowners is altogether subordinate to the general policy of the state" must be received with this additions—The rights of property will only be interfered with where a direct and immediate public benefit will result from such interference and on payment of a just recompense to the owner. These conditions are always complied with in the case of a new railway, for the construction of which portions of land are taken against the will of their owners. But these conditions would not be complied with were the land of Ireland handed over in perpetuity to the tenants. The payment of a fixed rent would not adequately remunerate the landlord; for he would lose the chance of benefit arising from a possible increase in the value of land, and the option of taking the occupation and cultivation of the land into his own hands, or of making any other new arrangement. His rights would be abridged, not for the sake of an immediate and positive benefit to the community, for the amount of benefit would be contingent, in each instance, on the industry and capability of the tenant. There would be this further objection, that a large number of tenants in Ireland, instead of applying themselves to the cultivation of the soil, would sub-let at advanced rents. In this way the "middleman" system, with its attendant evils, would be revived. Another project is to enable the tenant to recover the cost of improvements made by him upon his farm. Here the landlord would have to bear the expense of changes made upon his property against his will. This scheme is open to the further objection that it would encourage fraud and misrepresentation. The tenant class in Ireland, with many virtues, is not remarkable for the virtue of truthfulness. The temptation to overestimate the value of improvements would be so strong, that no one who knows the small farmers could expect them to struggle against that temptation.

But supposing that tenants will not improve the land, and that landlords in many instances, for reasons which Adam Smith and Mr. Mill have pointed out, are unable to do so, there still remains

an alternative. The funds necessary for the purpose may be advanced by the State. In Ireland considerable sums have been applied with good effect in drainage, under the supervision of the board of works. This plan is capable of considerable extension. There seems no reason why the public money should not be largely employed in works which are evidently for the public benefit. In this kind of investment the security is complete, and the outlay certain to be replaced. Every landowner, whether absolutely entitled, or only tenant for life under a settlement, should be enabled to borrow whatever sum may be necessary for this purpose, either from individual lenders, or from the government. Evidence was lately given before a select committee of the Commons to the effect that loans are by the existing law repayable too quickly. This should be altered, and the list of improvements should be made more comprehensive. If desired, the repayment by instalments might be spread over forty years. This country can afford to lend any sum on perfect security for useful purposes.

The additional suggestions which I have to make with regard to the occupation of land are the following: first, that the right of distraining should be abolished. Distress is a remedy of an ineffectual kind. If a tenant does not pay, the landlord should, by proceeding in the county court, be enabled to recover possession. That he should "take the law into his own hands" by a sudden and forcible seizure, is a remedy open to serious objections. The execution of the law should be confided only to responsible officers, and the abolition of distress and replevin would remove a fruitful source of vexatious litigation.

Again, the progress of agriculture is impeded by unreasonable restrictions and covenants in leases. Lord Stanley at Southport referred to this subject. He stated "that leases, as framed over the greater part of the country, are in many, perhaps in most cases, coupled with conditions which are unnecessarily complicated and restricted." Mr. Mill says, "it is a general complaint that farmers are tied up by covenants grounded on the practices of an obsolete and exploded agriculture." It is worthy of consideration by the Department, whether some method could be devised of remedying this evil. There are certain covenants in restraint of trade which the law will not even permit. Could not the law be extended so as to release the farmer from unreasonable and prejudicial covenants in restraint of agriculture?

Passing from the relation of landlord and tenant, it will be necessary to glance at the laws which affect the inheritance of land. Quoting Mr. Mill's axiom that entail and primogeniture tend to restrict the transfer of land and to subtract from its usefulness, the conclusion is irresistible that to these peculiar systems may be traced most of the points of unfitness in the law to the present condition of society. Mr. Mill has fully discussed the arguments for and against the English law of descent of land which he, for the sake of brevity, entitles "Primogeniture;" and it would be presumption on my part

to attempt to state those arguments in a clearer manner. He first points out that the reasons alleged in its favour and against the subdivision of freeholds, by M'Culloch and others, are fallacious; and that the bad results apprehended from a subdivision of the land are not likely to follow. He then states that the descent of land to one child in exclusion of the others is condemned by the principles of justice, even did no economical evils spring from it; but that in fact the natural effect of the law is to make the landlords an impoverished class, while, by collecting the land in large masses the community also suffer. It will be remembered that Adam Smith also condemned the law of primogeniture. He declared that, "nothing could be more contrary to the real interest of a numerous family than a right which in order to enrich one, beggars all the rest of the children." The arguments against it were ably stated by Mr. Locke King in his speech on the introduction of his Bill to assimilate real to personal property in cases of intestacy; and they are such as can hardly fail to convince any unprejudiced mind. This Bill would, if passed, remedy one of the most patent defects in our real property code.

The law only takes effect, it is true, where the owner of land has omitted to make a testamentary disposition of it. Admittedly it is in the power of every landowner to exclude the operation of this law by arranging his affairs during his lifetime. The effect of the present law is rather indirect than direct. It regulates the descent of land rather by example than by direct operation on the estates of intestate owners. It amounts to a solemn public expression of opinion that the old feudal preference of one child is just, and should be adhered to. When the great estates of this realm refuse, as they have hitherto refused, to alter this law, they influence the intentions and shape the conduct of a vast number of owners of land. Reverence for law is deeply ingrained in the English nature. Were this unjust law altered testators would gradually lose the habit of enriching one child at the expense of the rest. The accident of birth would cease to have an influence in family arrangements; the present tendency of the landowners as a class to decrease in numbers would be checked by the subdivision of estates among a larger number of proprietors; and the economic evils which Mr. Mill has shown to be the direct consequences of the present system, would cease.

Entails were pointed out by Adam Smith to be the natural results of primogeniture. "They were introduced (A. Smith, p. 171) to preserve a certain lineal succession, of which the law of primogeniture first gave the idea, and to hinder any part of the original estate from being carried out of the proposed line, either by gift, or devise, or alienation. . . . When great landed estates were a sort of principalities, entails might not be unreasonable. . . . But in the present state of Europe, when small as well as great estates derive their security from the laws of their country, nothing can be more completely absurd."

Again Adam Smith says—

"There still remain in both parts of the United Kingdom some

great estates which have continued without interruption in the hands of the same family since the times of feudal anarchy. Compare the present condition of those estates with the possessions of the small proprietors in their neighbourhood, and you will require no other argument to convince you how unfavourable such extensive property is to improvement."

Mr. Mill further shows that the economical evils arising from entails "were partly of the same kind, partly different, but on the whole greater than those arising from primogeniture alone." He shows that although the power of entail is more limited in England than in Scotland, and some other countries, yet that it is practically very extensive, as estates are usually resettled on the coming of age of the tenant-in-tail. Mr. Mill condemns the system of entail for the same reason that he condemns primogeniture—because they tend to keep land together in large masses in the hands of persons who frequently are unable to lay out money in improvements, and who cannot be expected to sell to more energetic proprietors. Experience of the titles of some hundreds of entailed estates in Ireland, has convinced me that the tendency of the system of entail is not to encourage thrift. On the contrary, it encourages debt and extravagance. It is usual to find the interest of the tenant for life more or less incumbered; and on the resettlement of the estate these debts were very frequently charged on the inheritance. This was the price which the young tenant-in-tail usually paid for an allowance or fixed income during his father's lifetime. Moreover, the usual powers of charging portions, &c., were exercised to the full extent; and every fresh generation witnessed a new cluster of incumbrances on the estate. The natural tendency of the system was therefore to swamp the inheritance in debt in the course of three or four generations, and to render the annual rental insufficient for the payment of the interest on mortgages, family charges, &c., and the other outgoings. Among other evils incidentally appearing, it has frequently been found that tenants for life have received premiums on the granting of leases;* and have stipulated for benefits to themselves on the occasion of exercising powers of charging or appointing. These irregularities are the result of settlements of small estates.

Entails may however be expedient in the case of large ancestral estates, connected, for instance, with the peerage. Here the estate can afford to bear the burdens which will come upon it; and there is a powerful reason why the feudal dignity of an eldest son should be preserved in its ancient splendour.

Mr. Mill does not point out any way in which the system of entail can directly be affected. He merely suggests that is a result of the law of primogeniture; and that the change proposed in the descent of real property not devised by will would discourage entails. He proposes indeed that a testator shall have no power to determine the

* This practice "is frequently hurtful to the tenant, and it is always hurtful to the community."—Adam Smith, Book V. chap. ii.

person who shall succeed to his property after the determination of a life or lives in being. This proposal deserves careful attention, and seems to offer some alleviation of the economic evils resulting from entails. There is another method by which some of these evils may be remedied. Powers of sale are frequently omitted from settlements, and in their absence it is necessary to resort to the Court of Chancery for the purpose of selling any part of the property. There appear to me to be two important defects in the present mode of selling through the instrumentality of the Court of Chancery. The procedure is too costly to be available for properties of small value; and the powers of the court are unnecessarily restricted, by the clause requiring consents to be given by various persons. As to the first, a simpler mode might be devised, and the local courts might be empowered to act in small cases. As to the second, the court should have full power to sanction a sale, even in the absence of consents, on being satisfied of the *bona fides* and advantage of the transaction. It is most undesirable that any property whatever should be placed *extra commercium.*

It may surprise some persons to hear that there is one point in which the English law of real property is actually more adapted to the usages and wants of the age than the law of personal property. It is in relation to the property of married women. No mode could be discovered of barring the wife's reversionary interest in personal property; such an interest, therefore, remained incapable of sale or transfer until the passing of Mr. Malins's Act (20 & 21 Vict. c. 57). I cannot say whether the defects in this Act are original, or are owing to clauses introduced during its progress through Parliament; but there are very striking defects in it. Mainly, it does not apply to property comprised in deeds executed prior to the date of the Act. This is as though a remedial Act contained these words: "Provided always that no person shall derive advantage herefrom for the space of thirty years." This and other restrictions which hamper the utility of this Act should be swept away; and all property, real or personal, in possession or in reversion, of a married woman should be rendered capable of sale or transfer.

The next point which I shall mention is the existence of the anomalous tenures of copyhold, borough English, and gavelkind. Copyhold enfranchisement has been slowly progressing for a number of years; but the copyholder is exposed to some amount of trouble, and to some expense, before he can acquire a fee-simple. All this might be saved, and enfranchisement at once accomplished, by a few sections in an Act of Parliament. A simple enactment would convert all the land in England into fee-simple, without the trouble and expense of separate proceedings. The claims of the lord of the manor might be provided for according to a fixed scale, and commuted at once by force of the statute, into an annual rent-charge, or into a single sum of money. The other anomalous and exceptional tenures should also be abolished, and the tenure of land rendered uniform throughout the country.

Another improvement would be to shorten the periods fixed by the statutes of limitations. Those periods were fixed before railroads were constructed, or telegraphs invented; when intelligence travelled slowly, and newspapers were the luxuries of the few. The results of these wonderful aids to civilisation have been many. One result is that the events of life which affect the disposition and inheritance of property are far more rapidly communicated, and more widely published, than formerly. And it follows that the long periods allowed by law, during which adverse claims can be made, may be shortened without inconvenience. The direct advantages would be many. The elements of certainty and security would be more largely introduced into titles: and it would be unnecessary to make an investigation reaching back for sixty years on the occasion of a purchase of land.

The periods during which actions and suits can be brought might advantageously be shortened by one half, viz :—

(*a*) The extreme limit of forty years should be shortened to twenty years; or at the utmost an extreme limit of thirty years might be fixed. The Roman law allowed of no claim being put forward after the lapse of thirty years.

(*b*) The ordinary limit of twenty years for the recovery of land, legacies, and other charges on land, and for the redemption of mortgages, should be shortened to ten years.

(*c*) The limit of six years for the recovery of arrears of dower, rent, interest of money charged on land, and other demands should be shortened to three years. A creditor or landlord who allows an annual payment to be more than three years behindhand deserves to lose it. Much injury has been done by the accumulations of overdue interest to the injury of subsequent creditors.

The law of wills is the last branch of law on which I have remarks to offer. Though not strictly to be classed under real property laws, these enactments largely affect the disposition of land. The Wills Act of 1837, assimilated real and personal property so far as disposition by will is concerned. But it introduced refinements as to the exact method of signing and attesting wills which did not before exist, and which have been the source of much litigation and uncertainty.

No reliance can be placed on the memory of an ordinary witness as to the exact circumstances of a by-gone transaction in which he is not personally interested; and, therefore, there is always some danger of a question arising as to whether the attestation was strictly according to law. I propose without altering the terms of the Wills Act, to supplement it by a provision which will enable any will to be placed beyond reach of doubt or question. Any testator who wishes to have the fact of the due execution of his will guaranteed, should be permitted to sign in the presence of a registrar or district registrar of the Court of Probate, whose official seal annexed should be, for all purposes, evidence of the due execution of the instrument. This simple process would effectually exclude questions of the kind referred to. It would also tend to diminish the litigation arising out

of what is called "undue influence."* An act performed in the presence of a public officer would hardly be the result of threats or solicitations. No one would venture to deny, without ample reasons for the denial, that a will so executed is the voluntary act of the testator.

Another relaxation of the stringent terms of the Wills Act is suggested by a case which lately came before the Dublin Court of Probate. A gentleman, of high position in the university, on his wedding-day, and immediately before the ceremony, executed a will which had a direct reference to the new relation he was about to enter into; and made a suitable disposition of his property. The court was compelled to reject the will, inasmuch as the marriage was under the Act tantamount to a revocation. As the law stands, any person dying after marriage, and before any opportunity has occurred for making a new will, must necessarily and inevitably die intestate. I propose that any will made immediately before, and in contemplation of, a marriage, should be unrevoked by that marriage.

The third and last point in which the law relating to wills seems to require amendment, is the position of children born after the execution of the will.† With regard to children born during the testator's lifetime, it may be said that if he intended to provide for them he should have done so by a codicil. But the principle to be applied to these cases is this—that in case of negligence or failure of intention, the law itself should do justice. The case is a far stronger one where the child is born after the testator's death. But as regards all children born after the making of a will, it seems reasonable that the law should regard the want of a testamentary provision for them as an omission or accident to be remedied by law; and that as to a fair share of the property an intestacy should be presumed in their favour.

This paper has already reached the limit which does not allow of extension; and the transfer of land, a subject of permanent importance, must be passed over without more than a brief notice. The difficulties of this question were practically solved by the experience of the Irish court, which was, after some years of experiment, placed on a permanent foundation in 1858. The Landed Estates court formed the subject of papers read before the meetings of this Association in 1861 and 1862, and may therefore, be supposed to call for no further remark. There is a strong feeling in Ireland that the titles granted by that court ought to be kept on record and not allowed to relapse into complication, in order that future transfers and other dealings may be effected without delay and unnecessary expense. A Bill to accomplish this object was introduced by the

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* Mr. Mill's objection to voting papers, that they give facility to undue influence, and efficacy to the *vultus instantis tyranni*, may be cited as bearing on this point.

† The existing law as to the exclusion of after-born children is fully stated by Mr. Tudor in his notes, Leading Ca. Conveyancing, &c., pp. 704-712.

Attorney-General for Ireland very recently, but made no progress owing to the advanced state of the session. It will probably be reintroduced next session; and if it becomes law, there will be no ground for complaint that land cannot be bought and sold in Ireland with facility.

In England, the project for establishing a Landed Estates court, which fell to the ground with the change of government in 1859, has not been renewed. Since October 1862, an office for registering titles has been open in London, but the applications have not hitherto been numerous. There is reason to believe that when the public mind becomes more fully informed on this subject, the advantages of a registry of title will induce landowners to resort to the new office.

In course of time the way may be opened for the establishment of a Landed Estates court, or tribunal, having special cognizance of, and ample control over, titles to land and dealings with land. The Bills framed by Sir Hugh Cairns, in 1859, were intended to establish for this country a system which has been amply tested elsewhere, one which would have put an end to most of the difficulties which beset the transfer of land.

The number of distinct subjects to be referred to render this paper necessarily very incomplete in its mention of each of them. All that could be attempted, was to glance very briefly at some of the defects in our system of real property law; to note some points in which it is opposed to the received maxims of sound economy, and to the present wants of society.

The suggestions which I have ventured to make, may appear to some minds inadequate. It might have been a bolder course to pronounce the foundation defective, and instead of seeking to repair the superstructure, to propose that the ground be cleared, and a new edifice erected. In France the feudal system with all its incidents and consequences perished at a blow; and thence a symmetrical code of laws.

I reply, that France paid a price which England is not willing to pay. We prefer a thousand inconveniences arising from laws and usages dating from the Middle Ages, to the horrors of a revolution. Our jurisprudence, like the venerable cathedral under the shadow of which this Association meets, was founded in a by-gone age, in a different state of society. But its antiquity, and its connection with history, strengthen its intrinsic claims upon our regard. It is better by judicious reparation to render the edifice weatherproof and serviceable, than to undertake the stupendous task of rebuilding. If the restoration be carefully and timely undertaken, the ancient structure may witness the growth, and conduce to the welfare, of many generations yet to come.

CRIMINAL PROCEDURE.*

Whether any, and what, Ameliorations can be introduced into the Institution and Conduct of Criminal Prosecutions? By ROBERT STUART, *Barrister-at-Law.*

THE ancient forms of procedure, which still substantially prevail in the practice of our criminal courts, have much to recommend them, as component parts of a wise system of police, protective and detective, and of legal administration intended, and in many respects adapted, to the pure administration of justice. On a close examination this old system will be found to appeal, in many of its details, to the highest moral and social considerations, and to repose for the most part on the generally accepted principles of criminal jurisprudence: but it is at the same time marked by a traditional deference to what we incur no odium now by regarding as prejudices, as well as by a recognition of sentimental ideas, which, to the minds of many, are of a very questionable nature; for instance, that it is the right of every Englishman, of his own authority, to put the criminal law in motion, a dogma which lies at the foundation of the existing system of prosecution, but the logical consequences of which do not appear to have been well considered, not to speak of its manifest impracticability to the poorer classes, among whom the greater and more numerous offences are committed. Then there is a strong feeling in favour of the unqualified publicity we practice in all our police investigations, although it can be easily shown that such unqualified publicity must be prejudicial to that which is the great object of criminal procedure, the fair and impartial trial of the accused. And other blots, if they may be so called, of a similar nature on our professional escutcheon might be pointed out.

It will have been observed from the question proposed for our consideration on the present occasion, that it is with the institution and conduct of criminal proceedings that we are to concern ourselves—in other words, we are to consider, first, on whom, or on whose or on what responsibility, the duty of detecting crime, and prosecuting offenders, ought to devolve; secondly, the regulations that are proper for the apprehension and custody of the accused, with a view to trial; thirdly, the method and form of that trial and the verdict; fourthly, the means by which the punishment to be inflicted on conviction may be made certain and deterrent; and lastly, there is the subject of criminal appeal.

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* For the Discussion see Summary of the Department.

1. On whom, or on whose or on what responsibility, the duty of detecting crime and prosecuting offenders, ought to devolve? As you are aware, this subject has for many years largely engaged the attention of Parliament, the public, and the legal profession; and the appointment of a public prosecutor, along with the total abolition of the grand jury, have been seriously proposed. The first is a less doubtful reform than the second; nor are they necessary to each other. They both stand on their own ground, for there may be private prosecution without a grand jury, or public prosecution with a grand jury, or *vice versâ*. I shall therefore consider them separately. And first, of the appointment of a public prosecutor. It cannot, I think, be disputed, that the intelligent opinion of the country favours the abandonment of the existing system of prosecution, and the substitution of a procedure more in accordance with that which has long been accepted as the true definition of crime, that it is an offence rather against the state than against the individual. Indeed it has always appeared to me that such a definition of crime necessarily and logically disposes of the question, for if it be true that the offence is against the state, it stands to reason that it is the state that ought to deal with the offender, lay hold of him, try him, and when convicted punish him. But then, as I have said, and as we are still often reminded, it is considered to be the right of every Englishman, that is, of every Englishman who has been injured in his person or property, to put in motion the criminal law; a principle, however, which might be satisfied by imposing on the private party the duty of giving the necessary information to the authorities, so as to enable the latter to put in operation the state engine of justice. But as actually practised, I am not prepared to admit the soundness of this principle, even if it were of universal application among the people, which it plainly is not. It is not only inconsistent with the true character of crime as a public offence, but it arms private individuals with an alarming, and I venture to think unconstitutional power over their fellow men; and it is therefore incompatible with true and sound views of social liberty, one of the first conditions of which would appear to be, that it should not be put in peril excepting on the authority and responsibility of the same power which conferred it. But the private prosecutor cannot have any adequate sense of public responsibility in his proceedings; he is deficient, or at least comparatively deficient, in the means of procedure, and above all, he cannot bring to the trial of the accused the calm, unimpassioned feeling and motive that ought to characterise an inquisition which may result in the loss of life or liberty to the accused person, and which from the very nature of his office must more or less actuate a public prosecutor. Considerable light has been thrown on this question by the Eighth Report of the Criminal Law Commission. That report contains a very clear and able *résumé* of the evidence taken before the commissioners, and concludes with a very strong expression of their opinion in favour of the appointment of a public

prosecutor. When therefore it was presented to Parliament, and its contents were known, it attracted a great deal of attention, giving rise to very keen discussions, which were maintained by those who on the one hand approved the report, and, on the other, by those who are opposed on principle to any serious inroad on the then and still existing system. Perhaps indeed, among the Blue Books of modern times, none has ever so excited the public and professional interest as this same report; an interest, be it observed too, that was exclusively owing to the nature of the subject, and not in any respect to the circumstances under which the commission was issued. The commissioners themselves were gentlemen of great respectability in the profession, and when I mention the names of Sir Edward Ryan, the late Mr. Starkie, Mr. Vaughan Richards, Mr. Amos, and the late Mr. Justice Wightman, you may understand and appreciate the intelligence and fidelity with which they applied themselves to their important work. The commission itself was issued on February 22, 1844, and the commissioners presented their report on July 5, in the following year. Whatever we may sometimes hear about other commissions, no one who has attentively read the one we are considering, could justly impute to the commissioners any *laches* in their conduct; and I take leave to say that time better or more usefully spent in the public service by public officers concerned for the public interest could not be pointed out than the eighteen months that were occupied in the consideration and preparation of the report in question. The manner by which they collected evidence was not by examining the witnesses orally, but by means of a circular which was issued amongst those of the profession (upwards of 120 in number) who were considered more peculiarly skilled in the subject of criminal procedure, and therefore better fitted than others to give the information which the commissioners required; and this circular put to them ten different questions which might without impropriety be summarised by the question adopted as the subject of this paper, for they all substantially relate to and bear upon the institution and conduct of criminal proceedings. One of the questions asks whether any improvement can be suggested "as regards the duty of prosecution; whether it is considered to be effectual: and if not, in what respect it is capable of improvement." On this subject answers were returned by forty-nine of the gentlemen consulted, including the late Lord Denman, and the general concurrence of opinion among them in favour of the appointment of a public prosecutor is not a little remarkable. Lord Denman in his answer says:—

"Our procedure for the purpose of preliminary inquiry is open to great objection. The injured party may be helpless, ignorant, interested, corrupt. He is altogether irresponsible; yet his dealing with the criminal may effectually defeat justice. On general principles, it would evidently be desirable to appoint a public prosecutor, and I have little doubt that such an officer might be invested with the necessary powers in such a manner as would be free from all

reasonable objection; while it promoted the public interest by insuring the discovery of truth."

Mr. M. D. Hill, Q.C., the present learned and distinguished Recorder of Birmingham, stated that although the duty of prosecution was generally well performed:—

"Many prosecutions are instituted which would be avoided by the exercise of a sound discretion; and a long and extensive experience in criminal courts has confirmed me in the opinion that incalculable benefits would accrue from the appointment of public prosecutors."

To the same effect substantially are the answers returned on this subject by the great body of the gentlemen I have enumerated, including the late Serjeant Ludlow, Mr. Ellis, the then Attorney-General of the Duchy of Lancaster, Mr. Adolphus, and Mr. Bodkin, the present Assistant Judge of the Middlesex Sessions. The result was that the commissioners reported on this subject in the following terms, and I pray your attention to the fairness with which they state the case, suggesting all the more important considerations that may be urged in favour of the existing system, but ending with a recommendation in favour of a public prosecutor:—

"It is," they say, "obviously of the highest importance to the due administration of criminal justice, that provision should be made for the effectual prosecution of offenders by agents bound and properly qualified to execute the duty. It naturally occurs that the party injured should, if he be living and able, be appointed for this purpose: it seems to be more peculiarly incumbent on him, from his knowledge of the circumstances, and consequently his means of pointing out and providing the proper evidence, and, in some instances, his expectation of recovering property of which he has been despoiled, than on any other member of society. It may, perhaps, also fairly be expected that a sufferer from a criminal act would be more likely than any other to exert himself in order to bring the offender to justice. The existing law, founded on such or similar considerations, is by no means so effectual as it should be: the duty of prosecution is usually irksome, inconvenient, and burthensome; the injured party would often rather forego the prosecution than incur expense of time, labour, and money. When, therefore, the party injured is compelled by the magistrate to act as prosecutor, the duty is frequently performed unwillingly and carelessly. It cannot be well performed in any case without the aid of an attorney, nor without greater cost and expense than is usually allowed to the party who prosecutes. Hence it happens but too often, that prosecutions are conducted in a loose and unsatisfactory manner, from want of the means and labour essential to a just and satisfactory inquiry."

The fairness of these remarks must, I think, be admitted. The commissioners proceed to observe: "The entrusting the conduct of the prosecution to a private individual opens a wide door to bribery, collusion, and illegal compromises. . . . The direct and obvious

course for remedying such defects would consist in the appointment of public prosecutors." And they refer to the opinions they had obtained and to which I have already adverted.

All this, I say, occurred in 1844-45, and was simply and truly the consequence of the reflections arising out of the defects and abuses of the existing system, which had been forced on the government, the public, and the profession. It was followed by those desultory discussions in the newspapers of the day, and the legal and other periodicals, which are usually observed to be generated by any great movement on the part of the authorities of the country, bearing on any contemplated change in the laws. It cannot be said that the general interest in the subject relaxed to any appreciable degree. On the contrary, many evidences could be brought forward to show that the opinions avowed by so many competent witnesses in favour of the adoption of the principle of public prosecution, that is, of prosecution at the instance of the state as representing the public interest, had gained support, and had become confirmed in the minds of a large portion of the community. But ten years elapsed before anything further of a positive nature was attempted. In the year 1855, Mr. John George Phillimore, then a member of the House of Commons, introduced a Bill, which bore the endorsement of having been prepared and brought in by himself and Mr. Watson, afterwards Baron Watson, which was entitled "A Bill to provide for the appointment of Public Prosecutors and for the amendment of Criminal Procedure in England and Wales." But though a well-meant and highly enlightened measure of law reform, it attempted too much, was somewhat complicated in its provisions, and what was a more serious objection than any, it would have involved a very great and serious expense. Mr. Phillimore might have had greater success than he met with, if, instead of dealing with so much machinery as his Bill did, he had confined himself by his proposed enactments to the simple and distinct adoption by Parliament of the principle of the public prosecution of crimes, and by dovetailing his plan as nearly as possible with the existing procedure; for in a country like this it is scarcely ever wise in matters relating to the administration of the laws to attempt changes of a very comprehensive or sweeping character. Such legislation, to be safe, ought to be rather tentative, I had almost said timid, than the result of a strong and high-handed dogmatism; and therefore in regard to any future legislative proceedings on this subject, I trust that the fate of Mr. Phillimore's Bill, well meant and enlightened as it undoubtedly was, and sound in principle as I consider it to have been, will be a warning to other members of the legislature. But let me ask your attention to the course that Mr. Phillimore's Bill took, and what was done under it. It was brought in and read a first time at the commencement of the parliamentary session of 1855, and on the order for the second reading Mr. Phillimore made his statement in support of it, and from his speech I cannot refrain from quoting the following able and eloquent observations.

"It was," he said, "because abuses in the administration of criminal justice were of paramount importance, and because many of them must be attributed directly and immediately to the want of public prosecutors. He asked the House to declare its opinion that the most exalted functions of the Crown, and the most sacred rights of the subject, should not be left to the discretion of attorneys and policemen, but that the means of enforcing public justice should belong to an influence more august and commanding. Whatever varying boundaries might in other matters be allotted to the function of the government, there could be but one opinion, that it was the duty of government to provide for the pure and exact administration of justice, where the lives and liberties of the subject were at stake. When the law, by its indirect operation, gave an advantage to the rich over the poor, extending more aid to the man who could put it in motion than to him who could not, precisely to that extent it established a sense of injustice, and produced a mischievous effect upon the moral sentiments of the people. In the present administration of the law frequent instances must necessarily occur where such was the case; because the law threw upon the injured party the whole responsibility of bringing the criminal to justice, in spite of its own theory and language, according to which every offence was crime against the state. Such a state of things was unwise, preposterous, indecent, and without any parallel in any legislation, ancient or modern. It gave cause to scandals and evils to which it was astonishing that we submitted."

After a debate, rather timorous than favourable, the Bill was referred to a select committee. That committee consisted of Mr. Phillimore himself, the Attorney-General, Mr. Watson, Mr. William Ewart, Sir Frederic Thesiger, Mr. Phillipps, Sir George Grey, the Lord Advocate, the Solicitor-General for Ireland, Mr. Walpole, Mr. Napier, Lord Stanley, and Mr. Miles; and on August 9 the committee presented an interim report, with the evidence they had then collected, but recommending that they should be allowed to resume next session, which they accordingly did, and on May 9, 1856, they presented a report, strongly in favour of a change to a system of public prosecution. In their report they give a most luminous and interesting *résumé* of the evidence that had been taken before them, giving especial weight to that of our noble and learned President, Lord Brougham, whose evidence from beginning to end is most striking and impressive. They quote with marked approbation the opinion of his lordship that:—

"Nothing can be more ineffectual than the provision which the law, and the practice under it, now makes for the prosecution of offences;" and that "the entrusting the conduct of the prosecution to a private individual opens a wide door to bribery, collusion, and illegal compromises."

They also refer to the evidence of the late Lord Campbell, who had been examined before them and who stated that in England:—

"The criminal law was often most shamefully perverted to serve

private purposes. Indictments for perjury and conspiracy are in a great majority of cases preferred with a view to extort money; the same for keeping gaming-houses and brothels. There was no sufficient control over these prosecutions, and the criminal law was often perverted to very guilty purposes."

The opening statements of his lordship's evidence are very remarkable. He is asked :—

"Has your lordship's attention been devoted to the consideration of the appointment of a public prosecutor?" His answer is—"Yes, very much. I had the honour to be Attorney-General for the Crown, in England, about seven years, and I paid great attention to the subject during the whole of that period. I have since considered it very attentively, with a view to see whether it was possible to introduce into England the system of a public prosecutor, which I know has been found so very beneficial in Scotland. In Scotland I have had an opportunity from my own observation of seeing that the system there established works most admirably, both in the Court of Justiciary, the Supreme Court of Edinburgh, and the Assizes. I have attended in the Court of Justiciary again and again, and the Assizes for four counties are held very near my house in Scotland. I am in the habit, when I return from my duties as judge in England, of attending the Assizes there, and I see with my own eyes how the system works; and I confess I am of opinion that it works most admirably."

And farther on he observes :—

"I think that the prosecutions are better conducted in Scotland than they are in England, because I have observed that the cases are more carefully got up, and there are very few acquittals, although I see no improper convictions."

Among the other witnesses examined before the committee were the Lord Chief Justice Cockburn (then Attorney-General), Mr. Waddington of the Home Office, Mr. Ellis, Recorder of Leeds, Mr. Greaves, Q.C., Mr Straight, Deputy Clerk of Assize for the Home Circuit, and a number of practising solicitors and other persons of official experience. The statement made by the Lord Chief Justice is a singularly impressive one, and I would have been glad to have quoted it here at length, but I must content myself with a brief summary of his views. He says that it very often happens that cases are brought to trial which are only imperfectly got up, and they break down from the want of some superintending and controlling power to get the evidence together and to see that it is complete. The result frequently is that a guilty man is acquitted, which he looks upon as a very serious evil, and he considers that it operates as an encouragement to crime. He speaks also of ill-advised prosecutions, which are often hazarded from inadequate motives, and the contaminating effect of the prison on accused persons of whose guilt there is no sufficient evidence, but who are merely detained in custody that they may undergo the degrading ordeal of a trial. He refers also to cases of collusion and

cases where the prosecution is stopped by hush-money, and he concludes as follows :—

"I think, therefore, it would be very desirable that there should be a public prosecutor, under whose sanction indictments should be conducted, and without whose sanction they should not be compromised. I know that on different occasions (I can certainly call to mind two instances), Lord Campbell, from the bench, with reference to such cases, has publicly addressed me sitting in court as Attorney-General, pointing out to me the necessity of having a public prosecutor to prevent scandals in the administration of justice. It was that which, in the first place, induced me to turn my attention to the subject, and when our chairman first brought his Bill into Parliament, I at once stated that the Bill would immediately receive the consideration of Her Majesty's Government, and I stated that I was induced to take that course in consequence of what Lord Campbell had said to me, which I communicated on that occasion to some of the members of the Government who were sitting on the Treasury Bench."

The successful working of the system of public prosecution in Scotland is described to the committee by the then and present Lord Advocate (Mr. Moncrieff)—the Irish system is explained by Mr. Napier, late Lord Chancellor of Ireland—and the American by Mr. H. E. Davies, a lawyer of experience and eminence in the state of New York. Evidence of such weight and authority had its natural effect on the minds of the committee, who reported to the House the following, as their unanimous opinion :—"Your Committee are unanimous in thinking that the state of things referred to in the foregoing evidence is greatly defective and urgently requires amendment," and they proceed at considerable length to sketch out a plan by which, in their opinion, such amendment may best be effected, but which plan however excellent in idea, and possibly in working, appears to innovate too much upon the habits and customs of the profession and the courts, and is encumbered with suggestions going to the creation of a large amount of patronage in both branches of the profession, which I suspect was one of the embarrassments which stopped the progress of the measure. Mr. Phillimore appears subsequently to have been induced to abandon his Bill, in consequence of a vague promise on the part of the government of the day, to follow up the expectation which had been held out to the committee by the Attorney-General, that they would take the matter into their serious consideration, and perhaps ultimately bring in a Bill of their own. But nothing further was done, and to this hour, the old system of private prosecution, so strongly, so authoritatively, and so officially denounced, continues to prevail.

Now, making every allowance for the characteristically conservative temper of the English people, in regard to the traditional qualities that distinguish the domestic institutions of this country with the tenacity that at times looks not unlike an infallible attribution, and not forgetting the objectionable machinery which

Mr. Phillimore threw into his Bill—I say making every allowance on such grounds as these, it does seem to me strange that in the face of the solemnly recorded judgments of royal commissions and parliamentary committees, the opinions of the wise, the learned, and the experienced of the land, the admitted and obvious righteousness of the principle of public prosecution, appealing as it does to every consideration of domestic protection and safety, as respects our persons and property—I say it does seem strange that we should still be as far from the consummation of this much-needed reform as ever we were. Indeed, it almost looks as if the people, content to go on in the old way, had advisedly accepted and approved of the subsidence of the discussion. Too much, however, has been done, too much has been disclosed before the tribunals to which I have referred, to justify such a conclusion. The system of the private prosecution of crimes—that is, let me repeat, of offences against the state—has nothing in itself to recommend it. It is proved, on the evidence alluded to, to be costly, uncertain, and (compared with the statistics of other countries) unsuccessful. In many other countries, it could not exist a day without handing over the people to plunder and violence, and in this country, I do not scruple to affirm that it is solely indebted for its vitality to the honesty and justice of the people themselves, when assisting in administering the law, to the ability and honourable discharge of their duties by the profession, and to the purity, conscientiousness, and high integrity of the English judges. But, I repeat, the system of private prosecution, as it continues to be practised, has nothing, in itself, no quality or principle, which can explain it intelligibly, or on which it can find adequate support. I have never heard or read of any sound or rational defence of it, excepting that which I have ventured to call mere sentiment, such as that to which I have already adverted, namely, that it is the right of every Englishman to put in motion the criminal law; but a sentiment by the way which however dangerous and delusive in some aspects, is not necessarily inconsistent with the principle of public prosecution, for surely the Englishman could put in motion the criminal law better and more efficiently if he could make his complaint to a state officer, with all the means and appliances of a public prosecutor, than if left to his own resources and exertions. And, depend upon it, that while, as we have been told by Lord Chief Justice Cockburn, the existing system of private prosecution too frequently operates as a direct encouragement to crime, the greatest discouragement that could influence and deter the mind of willing and unscrupulous offenders would be the knowledge that there was an official sentinel of the state whose peculiar duty it was to keep a vigilant eye on all that relates to the public and domestic security, and who would, with all the unbounded resources of his position, track out the criminal, and bring him speedily and surely to justice. And then, there is the example of the other portions of the United Kingdom. Scotland, which might well borrow from this country in matters of civil procedure, holds

up the light here, and shows us an organised method of proceeding, based on the principle of public prosecution, happily conceived, and, as Lord Campbell remarked, most admirably practised. In his evidence before the committee on Mr. Phillimore's Bill, the Lord Advocate lays down its principle in the following terms :—

"The system proceeds upon the principle that it is the duty of the State to detect crime, apprehend offenders and punish them, and that independently of the interest of a private party. The Scotch system acknowledges the right of a private party to prosecute ; but the duty of a public prosecutor is altogether irrespective of that."

Its efficiency, as compared with the system here, as proved by ascertained facts, is not a little remarkable, for whilst in Scotland, during the year 1861, only about eight per cent. of those who were bailed or committed for trial were acquitted, in England and Wales nearly twenty-five per cent., that is one-fourth, escaped conviction. The comparative success, too, of the system of public prosecution in Scotland deserves all the more notice, from its being there applied purely and unqualifiedly — there is no grand jury (except in prosecutions for high treason)—and although there is no secrecy in any invidious sense, there is no public examination before a magistrate, but the Lord Advocate and his deputies throughout the country conduct their proceedings at their own discretion and on their own responsibility, without any interference whatever, and the result is, the all but certain conviction and punishment of the accused. On the other hand, as I shall presently show, the latter has privileges and means of defence quite as remarkable as the facility for prosecution. Altogether, the Scotch lawyers and the Scotch people may well be proud of their system of criminal procedure. It even most favourably qualifies the method and form of the trial, about which I have yet to speak more particularly. But I may in passing be permitted this one remark ; I have the honour to be a member of both the Scotch and English Bar, and I have a practical knowledge of the two systems, and without the least consciousness of a leaning towards the Scotch Courts, I do not hesitate to say that a greater contrast than that between an ordinary criminal trial in Scotland, and a trial here, could not be presented to the eye or to the mind. Let any intelligent and unprejudiced lawyer, after attending a trial in the High Court of Justiciary in Edinburgh, witness a similar proceeding at the Old Bailey in London, and he could scarcely resist the feeling and reflection that he had transferred himself to a tribunal where the administration of the criminal law was centuries behind ! Nor, excepting on the score of there being a public prosecutor in Scotland, can I account for the difference between the two courts. The Bar here are as able and perform their duties as efficiently as their brethren in Scotland ; and as for the judicial Bench here, it is unimpeachable ; and nowhere are juries more intelligent or careful of the lives and liberty of their fellow men, than in this country. What is it then that produces the contrast ? I can imagine nothing, unless it be that in Scotland the

public prosecutor is enabled to come into court better prepared, with his case better got up, while a sense of his office, and of his unimpassioned responsibility, probably lends a staidness and gravity to his demeanour, and consequently greater solemnity to the trial itself.

But notwithstanding all these favourable peculiarities of the Scotch procedure, I do not think it would be wise to attempt its unqualified adoption in this country. In this, as in other matters of politics and law, I would have our reformers to "gang warily," and with the application of the principle of public prosecution to retain every particular of the existing system that can consistently be retained. In fact it appears to me that, for the purpose of the reform in question, all that is wanted for criminal trials here, is simply to change the name of the prosecutor, leaving the position of the Bar, and as far as practicable of attorneys, very much what it is. The Scotch system in this respect has some objectionable features. There, the Bar as a body are not employed in conducting prosecutions, but the Lord Advocate, where he cannot attend himself, has four, or including the Solicitor-General, five deputies, who appear for him, and conduct all the prosecutions before the High Court at Edinburgh, and on the circuits. The gentlemen thus employed are, with the exception of the Solicitor-General, usually young men, and of little experience, but I am bound to say that the duty is generally —I had almost said invariably—well performed. Such a professional monopoly, however, has I think an injurious effect upon the Bar, and it is objectionable in another way, which I have myself often seen, or fancied I saw, namely that an undue weight is given to the prosecution—juries being rather disposed to attend to what is addressed to them by an official lawyer, habituated to exclusive official information, and representing the high traditional reputation of his office. And this weight has appeared to me so great as to more than countervail the unquestionably large powers and privileges of defence (much larger than in this country), that prisoners in Scotland unquestionably have. The barristers too, selected for this kind of business, are looked upon as having a claim on Government for promotion, and they are almost invariably appointed to the superior and non-resident judgeships of the sheriff or county courts, which is most valuable preferment, for it enables the barrister so preferred to remain at the Bar and keep his practice there, while it augments his status and position in the country, and last, though not least, gives him a very handsome salary. I am far from saying that such patronage is ever improperly exercised ; but as a system it must, I think, be allowed to be unfair, and therefore prejudicial to the rights and interests, and, in that way, to what may be called the independence, of the general body of the Bar. And in several other particulars the Scotch system is, in my opinion, too close, if I may so speak, in its working.

I would not then borrow in this, and in some other respects, from the practice in Scotland, but be content with the recognition and

adoption of the principle of public prosecution, so as to be consistent with the other particulars of the existing English procedure. Thus, let the public prosecutor be the Attorney-General, or some other minister of justice, whose duty it would be to put in motion the criminal process. Such an officer would of course require to have under him, and for his assistance, other subordinate officials, whose stated duties also would be prescribed and definite. But let the Bar be employed as they are now, quite indifferently as regards the favour of the Government, and solely on the ground of professional merit. There might be some difficulty in regulating all this, but a little experience of such a new department would doubtless suggest the necessary facilities.

I have not yet spoken of the Irish system of public prosecution which, in the words of Mr. Napier, in his evidence before the committee on Mr. Phillimore's Bill—

"Is founded on a principle which I think is a right one, that the executive government is properly, and I would say primarily charged with the security of society; that the security of life and property belongs peculiarly to the executive government; and that all prosecutions ought to be conducted by responsible public officers."

He then describes the plan followed in Ireland, which appears to resemble very much that which I venture to recommend for adoption in this country; but it is to be remarked that as in Scotland, so in Ireland, the counsel employed in prosecutions are always the same, with this difference, that while in Scotland the advocates depute always go out of office with the Lord Advocate on a change of government, the counsel in Ireland do not change with the Attorney-General, but continue to discharge their professional duties without regard to politics. There is also in the Irish system a staff of Crown solicitors and sessional prosecutors, very much resembling in these respects the arrangements in Scotland. But these things are all matters of detail, and not absolutely necessary to the adoption of the principle of public prosecution.

It only occurs to me to add, on this subject, that of course no system of public prosecution ought to be exclusive of the right of private prosecution. Where the public prosecutor fails, or refuses to proceed in any given case, it ought notwithstanding to be in the power of the injured party at his own cost, and on his own responsibility, to institute and conduct a prosecution. This right is saved in Scotland and Ireland, although in Scotland the private prosecutor must have the concourse or consent of the Lord Advocate, but that consent is never, and I believe cannot be refused.

But secondly, of the grand jury. The abolition of this body has been seriously advocated, but I think the expediency of such a sweeping change is very doubtful. Nay, for myself, I do not hesitate to say that, if the institution could be made a little more efficient for the careful examination of the prosecutor's evidence, I would prefer the finding of a bill by a grand jury, as the authority for a trial, either to the committal of a professional magistrate or the

discretionary order of a public prosecutor. A considerable amount of information on this subject is to be found in the two state papers to which I have referred, and the weight of it, I am concerned to say, is rather against than for the continuance of the institution. Indeed, the opinions of some of the more authoritative and distinguished of the persons examined are expressed in very strong and unhesitating terms. Lord Brougham is on this subject, too, as wise and cautious as he is luminous. Having regard to the creation of a system that would unite the office of public prosecutor with the retention of the grand jury, his lordship is asked whether he considers —"That only such cases should be sent to the grand jury as the Public Prosecutor was of opinion ought to be submitted to them?" And he answers—"Yes; I have the greatest reverence for the institution of the grand jury, but at the same time I consider that in the great majority of cases it might be most conveniently and advantageously dispensed with;" but he would not abolish the grand jury altogether, and he would retain the right of private prosecution. Lord Denman entertained and expressed a strong opinion against the utility of the grand jury in the statement which he communicated to the Criminal Law Commissioners, and to which I have already alluded in my remarks on the subject of a public prosecutor. He could see no benefit in the institution, excepting in the means it afforded to the higher and middling classes of co-operating in the administration of justice. This, however, I venture to think, is something better than a mere sentiment, and is, indeed, no small benefit. He refers, however, to an article which appeared in the *Edinburgh Review*, in the autumn of 1828, as accurately expressing his opinions, which opinions he still held. In this article, to a quotation from which I feel assured you will listen with interest, the word jury is described "as so musical to English ears," and its functions as "beyond all doubt, one of the best and noblest securities for all the rights of social man." The article, however, goes on to say:—

"But the generous institution here characterised corresponds in no single feature with that anomalous excrescence attached to courts of criminal law in England, under the name of a grand jury. That is not an open, but a secret tribunal. The accused has no voice in its formation; no challenge against his worst enemy, who may possibly direct its unwitnessed deliberations. The legal points that may arise are clandestinely debated and decided, without the assistance of any known minister of the law. In their private chamber, the grand jurors hear the testimony on behalf of the accusation only, subject to no cross-examination or contradiction. In a spirit directly hostile to the most cherished principles of English law, everything takes place with closed doors, and in the absence of the party to be affected. Finally, as if to complete the contrast, the verdict need not be unanimous, or even the opinion of two-thirds; for a bare majority, twelve to eleven, is sufficient either to put a party on his trial, or to stifle the most important investigation.

The books leave the duties of grand juries extremely indefinite. The judge often exhorts them not to try the cases that come upstairs to them, but merely to inquire whether there is ground for ulterior inquiry. Yet they present upon their oaths, positively, that A stole the goods of B, &c.; and Lord Somers wrote a tract to prove that they were bound to sift minutely the whole evidence, before they could be justified in returning a true bill. The effect and use of their functions it is still more difficult to collect. Where they find the bill, they only express the opinion already adopted and acted upon by the committing magistrate, after a much more satisfactory proceeding. Is not this superfluous? If they differ from him, and, by rejecting the bill, quash the charge, they can hardly clear the suspected character, but may do irreparable injury to public justice."

This, I think you will agree with me, is rather the language of denunciation than of mere disapproval, and is all the more remarkable from coming from so high-minded and thoughtful a person as Lord Denman was. Nor does his lordship stand alone in this respect, for the weight of the other evidence is, I fear I must say, in the same direction. Several of the witnesses, however, express opinions against the institution in a somewhat modified sense. Thus, Mr. M. D. Hill, Q.C., the Recorder of Birmingham, thinks that "in regard to all cases in which depositions have been taken grand juries might safely be dispensed with, except in cases of treason and sedition;" and Mr. Mellor (the present Mr. Justice Mellor), thought a grand jury entirely useless in the great majority of cases which have been investigated by justices, but was not prepared to suggest that it should be dispensed with altogether, but would confine it to cases where the parties charged have not been committed by justices. On the other hand, Mr. Napier, and many others, would retain the institution as it is. Mr. Napier says in his evidence before the Committee on Mr. Phillimore's Bill:—

"The functions of the grand jury are, I think, very important; I should be very sorry to see the grand jury dispensed with. I think that a person who is put upon his trial ought to have the protection first of a careful investigation by a public officer, the Crown solicitor, the magistrate, and so on, and the Attorney-General, and also the protection of the grand jury. I also think that it is of great importance bringing the country gentlemen to take an interest in the state and good order of their neighbourhood."

We have seen that the last sentiment was the only consideration that Lord Denman allowed in favour of the institution. But as I have said, the general weight of the opinions and statements referred to is against it. And such, I take it, is the general feeling of the public and profession at the present day. I feel, however, it is difficult to resist a certain sympathy with those who would be reformers in other respects, but are conservatives here. Nor is the abolition of the grand jury necessary to the employment of a public

prosecutor; on the contrary, the grand jury might be a salutary check on that officer, while on the other hand, he might derive useful support in conducting a prosecution from the previous finding of a true bill.

An attempt on partial reform on this subject was made by Sir F. Thesiger, now Lord Chelmsford. On June 9, 1857, he brought in a Bill in the House of Commons to dispense with the attendance of grand juries in the Central Criminal Court, and in General and Quarter Sessions holden within the Metropolitan Police District. In the course of his speech, he said :—

"The question was by no means new, for the subject of grand juries had attracted public attention for many years. A great deal of evidence in reference to it was taken before the commission appointed in 1845, to inquire into the state of the criminal law, and afterwards the question of grand juries was again investigated by a committee of that House. Observations had since fallen from judges on the bench, complaints had been made by advocates, which had been echoed through the press, and year after year the grand juries of the Central Criminal Court and the Middlesex sessions had been in the habit of presenting themselves, not only as of no utility, but as being an absolute impediment to the administration of justice. Nor had legislative attempts to abolish the system been wanting, although they were unsuccessful. In 1849, the late Sir J. Jervis brought in a Bill to facilitate the administration of justice in the metropolitan districts which contained provisions rendering unnecessary the intervention of grand juries in criminal trials. That Bill had been referred to a select committee, of which he, Sir F. Thesiger, had been a member, and by which a great number of experienced persons had been examined. Amongst others, they examined the clerk of the Central Criminal Court, the Common Serjeant of that day, Mr. Humphreys, a solicitor practising in the Central Criminal Court, and who had written an excellent pamphlet on grand juries, an alderman of the City of London, the chairman of the Newington Sessions, and a merchant of the City of London, who had been foreman of grand juries for a great number of years. These witnesses expressed an unanimous opinion that it was desirable that grand juries should not be assembled within the metropolitan districts, and this opinion was supported by reasons which seemed to him to be unanswerable."

He then referred to a charge delivered to the grand jury of the Central Criminal Court in 1852 by the Recorder of London, which, with a presentment at the same sessions from the grand jury, may be described as a protest against the institution. The extracts that Lord Chelmsford gave from the Recorder's charge and the grand jury's presentment are too remarkable to be omitted here :—

"The great mass of the cases," said the Recorder, "were, as usual, of the ordinary description, and many of their predecessors in that box had expressed an opinion that it was unnecessary that they should be called together for the purpose of considering such cases.

With regard to the great body of them, which had previously undergone full inquiry by magistrates of great experience and legal knowledge he (the learned Recorder) entirely concurred in the opinion of the grand jury, that their services in this district were perfectly useless. He was afraid that the grand jury not only occasioned a great loss of time, but they also were the means of increasing very considerably the expenses of criminal prosecutions, and that in some instances the grand jury also afforded an opportunity for parties to defeat the purposes of justice by tampering with the witnesses, and that in others they were made the medium of occasioning great injustice, by affording vindictive persons an opportunity of preferring unfounded charges behind the backs of those they accused."

The presentment of the grand jury was even more pointed, and was as follows :—

"The grand jury of the fifth session of the Central Criminal Court, of the year 1852, beg leave to express their unanimous opinion that a grand jury, within the limits of the jurisdiction of the stipendiary magistrates, is wholly unnecessary. It increases the expense and adds to the delay of criminal prosecutions. It affords an opportunity for corruption, and for tampering with prosecutors and witnesses. It enables an evil-disposed person to throw his victim into prison by a false *ex parte* statement made behind his back, and without any previous notice. It is, in fact, an instrument of extortion and of oppression, and, as it frustrates the ends of justice, it is worse than useless, and ought to be immediately abolished. The grand jury having been informed that presentments to the same effect have been made by other grand juries; that copies of several of these presentments have been laid before the House of Commons, on the motion of Mr. Matthew Forster, the Member for Berwick; that a committee of the House of Commons appointed to investigate the subject reported that such a tribunal had become unnecessary; that a Bill was introduced into Parliament by the present Lord Chief Justice of the Common Pleas, the Right Hon. Sir John Jervis, to abolish it, but which Bill was allowed to be dropped by the late Ministry; they consider that to suffer its continuance in opposition to the often recorded opinions of those best qualified to judge of its utility has a tendency to bring not contempt, not only the administration of justice, but the laws of the country. The grand jury, therefore, request that a copy of this presentment may be forwarded to the Prime Minister, and to the Secretary of State for the Home Department, of Her Majesty's new Ministry, and they hope that a Bill to abolish the grand jury of the Central Criminal Court and of the Middlesex Sessions will form a part of their earliest measures of law reform."

An appeal so urgent, and coming from such a quarter, could not be disregarded, and Sir F. Thesiger, as Attorney-General under Lord Derby's Government, introduced a Bill to dispense with grand juries within the metropolitan district, but he was compelled to

withdraw it in consequence of the dissolution of Parliament which shortly afterwards took place. It was subsequently re-introduced by him, and read a second time on June 12, 1857, and committed, and various attempts were afterwards made by him to get it proceeded with; but at last on July 27 of the same year he announced that in consequence of the state of public business and the advanced period of the session, he had decided on withdrawing it for the present, the order for the committee was discharged, and nothing has since been heard of the Bill. The reasons stated in the above quotations are certainly worthy of the most serious consideration, but it is impossible not to see that they could not be stated with nearly equal force against the grand jury system generally, and therefore while perhaps it is to be regretted that Sir F. Thesiger's Bill was withdrawn from parliamentary discussion, those who wish the institution to be maintained in its integrity cannot but feel satisfied at the fate it met with. I do not myself well see how the proposal to abolish the grand jury in the metropolitan district can be entertained without reference to it elsewhere, nor can it I think be doubted that such a change if adopted in London would speedily be extended throughout the country. That prosecutions could be instituted and conducted with success without the assistance of grand juries, I am not inclined to dispute, but grand juries do not merely meet at assizes or sessions exclusively for the purpose of finding or ignoring bills of indictment; and I think there is great force in the remark of Lord Denman and Mr. Napier, particularly the latter, that there is great social advantage in bringing the different classes of the community together on these formal occasions. Perhaps Mr. Justice Mellor offered the best solution of the question by what I have already quoted from the opinion he communicated to the criminal law commissioners in 1845, to the effect that the services of grand juries should be dispensed with in cases that had already been investigated by magistrates, but be otherwise retained.

II. The next branch of my subject has regard to the regulations that are proper for the detection and custody of the accused with a view to trial, but it is not necessary that I should detain you at length on this subject, for having got our public prosecutor, as I will assume we have, with or without a grand jury, his official machinery might fairly be left to himself, along with such suggestions as his knowledge of the system of other countries might afford. The proper supervision and employment of the police—the discovery of evidence—with the ascertainment of all the circumstances connected with the perpetration of the imputed crime, so as on the one hand to ensure conviction in the case of the really guilty, and on the other to avoid needless prosecutions, and much more the pain and injustice of involving innocent persons in criminal investigations; these, I say, and other details of preliminary procedure, the public prosecutor would have facilities for conveniently prescribing and putting in practice. But there is one point on which

I should like to offer a remark, and that is the bearing of all these regulations on the trial of the accused, for I am not at present dealing with the question of the summary trial and conviction of offenders before a magistrate. The case I am supposing is the investigation and preparation that contemplate indictment, arraignment, and trial. And, such being the object in view, may I be permitted to ask whether the unqualified publicity that accompanies all such investigations before magistrates and coroners is right and proper? This subject did not escape the attention of the committee on Mr. Phillimore's Bill, and here, too, our noble and learned president, Lord Brougham, is eminently instructive. The Lord Advocate, who was a member of the committee, put this question to his lordship:—

"What do you think would be the effect of a public examination before magistrates and coroners' inquests as an initial proceeding with a view to prosecution?"

His lordship's reply was:—

"There is a great deal to be said on both sides upon that, as upon many other questions. There are great inconveniences, no doubt, in the publicity of the examination; there is very great hardship to the party brought before the magistrate in its publicity; there is very great annoyance and hardship to the witnesses and the prosecutor, who are brought before the magistrate, no doubt; but against all that, one cannot help setting the great advantage of the publicity of the proceeding, both preventing any malpractices by placing the magistrate, who is then the court, in the eye of the public, and also the great benefit which arises with a view to police, from its tendency to discover evidence, and to enable the parties prosecuting to be put upon the traces to find witnesses; so that, upon the whole, I have no doubt whatever that the benefits exceed the disadvantages of a public examination."

His lordship was again asked, "Has it not a contrary effect in some instances, namely, of affording guilty parties the means of escape?" To which he answered, "No doubt it may have that effect. I am talking of the balance." It would certainly be very important and interesting to know whether the publicity of proceedings before magistrates has been found to lead materially to the discovery of evidence. But there is one consideration on this subject which does not appear to have been noticed by Mr. Phillimore's committee, and that is, the effect of all this publicity on the trial following the magistrate's committal—is it fair to the accused? In other words, is a prisoner likely to have a fairer trial before a jury chosen from a community who are perfectly unbiassed and unprejudiced by any previous knowledge of the case derived from newspapers or otherwise, than from a jury selected from a body to whom the newspaper reports have disclosed all the facts that have come to light, and among whom the probability of the guilt or innocence of the prisoner has been the subject of gossipping jealousy and suspicion? There can I think be but one answer to this, namely, that

the non-publicity of the preliminary inquiries affords better conditions for an impartial trial than can the system of unqualified and unmitigated publicity that prevails in this country. True, the grand jury may be said to work secretly, but then they only examine the witnesses for the prosecution, and their consideration of the case in that way is generally preceded by a public investigation, or what may be called a public trial with a view to committal, before a magistrate. In Scotland, the preliminary investigation is concluded privately by the public prosecutor and his official assistants, and it is considered there that this mode of proceeding has the double advantage of enabling the prosecutor to get up his case well, and of securing to the accused person a fair and impartial trial; and let it be observed that although the prosecutor's proceedings are withheld from publicity they must, to a certain extent, and within a certain time, be communicated to the accused party and his professional advisers. Thus fifteen days before the day of trial the prisoner in Scotland must have had served upon him a copy of the indictment (usually a printed one) with, appended to it, a list of the jury panel, and also a list of all the prosecutor's witnesses, their names, occupations, and addresses; so that the prisoner, or his legal advisers, may have access to them, and ascertain, and be prepared for, the evidence they are to give. This is a very important privilege, and I think it must be allowed that so far as the interests of the prisoner are concerned, it protects these from any possible prejudice arising from the non-publicity of the preliminary investigation. And the result for the public is satisfactory; the convictions in Scotland being proportionally much greater than here, while any popular discontent with them is, I may say, unknown and unheard of. I may here be reminded that it was not so in the case of Jessie McLachlan, recently tried and convicted of murder at Glasgow. That was, however, an exceptional case, and the excitement it occasioned was altogether factitious, and, as we now know, unfounded. If I may humbly offer my own impression, I should say that the publicity that is given by newspapers in England is often opposed to the true interests of justice, and that the press would exercise a sound discretion by withholding the publication of the depositions in all cases where there is a committal for trial, or likely to be one; and, at all events, if we must have it, I think it ought to be regulated so that it may not in any way prejudice the trial. We all know that the necessity of imposing a temporary restraint on the press in this respect is occasionally manifested by the judges themselves when they order that in particular cases the evidence and proceedings shall not be published till the trial is over—a most wise and salutary direction, which I venture to think ought to be the rule, and not the exception, where there is a contentious denial of guilt on the part of the prisoner, and a *bonâ fide* trial of the fact thereby necessitated. Whether such an order will be issued previous to the trial of the person accused of the murder of Mr. Briggs I do not presume to anticipate—but this I may say, that there are

portions of the community whose minds have been so deeply affected against the prisoner, by the partial disclosures that have been made, from among whom it would be dangerous to the interests of justice to choose the jury or any one of them. Justice is said to be blind; but her blindness can be of little avail, if, while her eyes are shut, her ears are open to one side only. Obviously, indeed, a pure and perfect method of justice for persons who, be it never forgotten, are protected by the presumption of innocence, would seem to require that neither the public at large nor the jury, who are constitutionally the country, should know anything of the case till the prosecutor has publicly alleged his facts on the formal arraignment of the prisoner, and on the issue, guilty or not? But let me not be misunderstood. I do not contend for any proceeding with closed doors. Let the magistrates' chambers be at all times open courts—only, where there is a case for committal, do not publish the proceedings till the trial is over.

III. Allow me now a few observations on the method and form of the trial. I have already remarked on the very favourable, but not less strange and unaccountable contrast that a criminal trial in Scotland, particularly in the High Court at Edinburgh, presents to the same proceeding here: and I have suggested that the greater solemnity and the better forensic order that appear to distinguish the former are attributable to the employment of a public prosecutor, and in no other way, I repeat, can I attempt to explain the difference between the two modes of procedure. I have not said, and I do not consider, that that difference is in any respect owing to any distinction in regard to the form of the trial. But there is a difference there, too. In Scotland there is no opening statement by the counsel for the prosecution, and even the reading of the indictment, which is strictly the rule, is frequently dispensed with—printed copies of the indictment, however, the same as had been fifteen days or more previously served on the prisoner, are distributed among the jury; and as that document syllogistically (for it is in the form of the syllogism) and succinctly states the facts on which the prosecutor relies, a very brief perusal of it is sufficient to enable any one to understand the case. We will suppose, however, that the indictment is formally read by the clerk, and it is always read where the prisoner or his counsel desire it. The prosecutor proceeds to enter upon his evidence at once; and when he has closed his case in that way, the prisoner's counsel calls witnesses for the defence, if he has any. The counsel for the Crown, or public prosecutor, then addresses the jury on the whole case, and is followed by the counsel for the prisoner, who thus has the last word—he has the last word both in fact and in law, and this is, I need not point out, a very great privilege. Yet, notwithstanding,—and this cannot be too frequently noticed,—the proportion of convictions in Scotland over acquittals is very much greater than here, for no argument or eloquence can successfully oppose themselves to positive evidence of crime; and the complete and exhaustive manner in which the

public prosecutor in Scotland is able to get up his case, is the true cause, and the only cause, of the numerous convictions. The form I have described is the old form of trial in Scotland in all causes, civil as well as criminal, and the principle of it has been explained to be that every defendant or inculpated person ought to have the right of finally answering all that can be alleged against him. And, clearly, on an issue of felony, the right to the last word seems but to be consistent with the presumption of innocence. I am at the same time far from saying that this Scotch form of trial would be suitable here; and, unquestionably, I would be the last to recommend its adoption in any but a system of public prosecution. A private prosecutor is in a different position, and has a different responsibility, and I would certainly require at his hands a very sufficient statement of his reasons for putting the life or the liberty of his fellow subject in peril. But at the same time I venture to suggest, with the greatest deference, that the manner in which this duty is performed is open to some degree of unfavourable criticism. It is often too much of a one-sided pleading, the evidence being anticipated by a rhetorical and argumentative commentary, which must in many cases create a bias unfavourable to the calm and impartial consideration of the evidence as it proceeds; while, where the evidence falls short of the statement, the prosecution is weakened, it may be destroyed, although in truth a serious case for conviction and punishment remained against the accused. A prosecuting counsel may state a fact as matter of allegation by him against the prisoner, but he has no right to say, "I will put a witness in the box, and he will tell you so and so," or "it will be proved to you that," &c. I say he has no right thus to anticipate the evidence; in other words, to anticipate, from his brief, the testimony a witness may give under the sanction of an oath in open court. While therefore I cannot bring myself to say that under the existing system the opening statement of the prosecuting counsel should be altogether dispensed with, I think it should be made in the simplest, I had almost said barest, possible manner, in fact, a mere statement of facts without rhetoric or argument, or any colourable feature. I also venture to think that the form of the trial should in all cases be consistent with the presumption of innocence, and that the prisoner should have the last word.

And now, of the verdict. Besides that of guilty and not guilty it has frequently been proposed by English lawyers that juries should have it in their power if they think proper to return a verdict of "not proven." This, strange to say, is the usual verdict of acquittal in Scotland; and although I am not aware that it finds any peculiar favour with the public or the profession there (indeed I have heard more in its favour in England than I ever have in Scotland), it is regarded as a useful and reasonable conclusion to a doubtful case, and it relieves consciences in the jury-box which would be offended by a verdict of not guilty. And this, I think, is the sum and substance of all that can be said in its favour. The history of

its introduction into the Scotch practice is very curious.* It is not only in Scotland the usual verdict of acquittal but it is a final verdict there, and there can be no new trial, so that the stigma it throws on a prisoner, whom it may be said at one and the same time to acquit and condemn, can never be judicially removed. This is surely wrong, and yet I do not remember ever to have heard a complaint against the use of this verdict in Scotland, from which we may infer that the consciences of the acquitted persons are too well satisfied with their liberation to object that it has been but grudgingly conceded to them. But that it frequently works injustice I am convinced. It is known frequently to be returned where the prosecution utterly fails, breaks down, and the indictment is withdrawn; although it is quite unsuited to such a result, for it is at least a verdict upon the merits, and if those merits are withdrawn by the prosecutor himself the verdict ought clearly to be not guilty. To the latter verdict of course its existence and use in the Scottish practice lend great force, and there a verdict of not guilty is a complete and unqualified discharge, moral as well as legal, without the least taint or prejudice remaining behind. Still, admitting all that, I very much doubt the expediency of its introduction into the practice of the courts of this country; and generally having regard to sound judicial principle, this verdict of not proven appears to me to be unconstitutional, illogical, and unjust. It is unconstitutional because it is directly opposed to the presumption of innocence; it is illogical, because it is no sufficient answer to the issue which the jury have to try; and it is essentially unjust, because it is qualified by no means by which the stigma it casts can be removed or even reconsidered. But it has frequently been proposed here that it might be beneficially practised in the English courts, if made the ground for an application for a new trial; and in the Appendix to the Eighth Report of the Criminal Law Commission, will be found numerous evidences in favour of this view; but, to my mind, the benefit to be derived from such a change is rather doubtful, and my own feeling is that the English people should remain satisfied with their old verdicts of guilty or not guilty.

IV. and lastly, I had prepared some remarks on the means by which the punishment to be inflicted on conviction may be made certain and deterrent, and on the subject of criminal appeal; but I have detained you already so long, that I feel constrained to omit them on the present occasion. I cannot, however, refrain from expressing my sincere regret that Sir Fitzroy Kelly's excellent Bill has not ere this passed into law. Besides its other merits, it would have the effect of rendering any supposed advantage from the use of the verdict of not proven altogether unnecessary, and I trust that the opposition to it by the Government may on further consideration be

* I would refer those who would wish to make themselves acquainted with the subject to an article on this verdict which was published in the *Law Magazine* for 1850, Vol. 44, pp. 182-199.

removed. In the meantime, I feel pleasure in congratulating law reformers on the passing of the recent statute for the better regulation of convict discipline; and Sir George Grey's admirable circular to the judges clearly describes its purpose and provisions, and the mode in which convicts under sentence of penal servitude will now be treated by the Home Office.

I have now in conclusion to state that, for the reasons assigned and suggested by the preceding observations, my answer to the question "Whether any, and what ameliorations can be introduced into the institution and conduct of criminal prosecutions?"—is, first, that the existing system of prosecution by private parties is objectionable; secondly, that the institution of the grand jury ought to be retained, but that its use in regard to bills of indictment should be limited to cases which have not otherwise been properly investigated; thirdly, that in all preliminary investigations with a view to trial regulations ought to be made in restraint of the existing system of unqualified publicity; fourthly, that in regard to the form of the trial, nothing should be addressed to the jury before the evidence is entered upon, but a simple and bare statement of the facts; and that thereafter the trial should be so regulated as to allow the prisoner or his counsel to have the last word; fifthly, that the introduction of the verdict of not proven into the English practice is inexpedient; and sixthly, that the want of any efficient system of criminal appeal is a defect in our criminal procedure, and ought to be remedied.

RESPONSIBILITY AND MENTAL COMPETENCE.

On what Principles ought the Law to deal with Questions of Responsibility and Mental Competence, in Civil and Criminal Cases respectively? By JAMES FITZJAMES STEPHEN, *Barrister-at-Law.*

THIS question, I think, will be found to admit of a simple answer, although the amount of discussion which it has excited, and the difficulty which the public appear to experience in dealing with practical questions more or less dependent upon it, would seem, at first sight, to point to the inference that the subject is one of great intricacy and difficulty. My own opinion is, that when once fairly stated, it almost answers itself; and in order to set this in a clear light, I propose to begin by trying to show how the supposed difficulty arises. It arises, I believe, almost entirely from the careless and unsystematic manner in which the matter is usually discussed. A trial involving the question of the legal relations of madness is reported in the newspapers. Its incidents happen to excite and amuse

the public; they approve or disapprove the judgment of the court, or the verdict of the jury, and leading articles and letters from occasional correspondents discuss the subject with more or less fervour and knowledge, but always with direct reference to the particular case. Hence the particular result and the general principle get confused together, and if the particular result happens to be unsatisfactory, a vague impression gets abroad that the general principles of the law are unsound. Take, for instance, the discussions on the Windham case, or on the case of Townley, tried at Derby last winter for murder. In each of these instances the public was more or less dissatisfied with the final result of the proceedings—with what was considered to be the needless waste of a large estate in costs in the Windham case, and what was considered to be a wrongful interference with the course of justice in the case of Townley. These, and several other well-known cases, bring the question of the laws relating to madness under discussion, and the discussion produced the general vague feeling of dissatisfaction to which I have referred.

The object of this paper will be to show that this uneasiness is merely the result of ignorance, that the "principles on which the law deals with questions of responsibility and mental competence," to use the terms of the question, are perfectly sound, and, when once understood, extremely simple, and that no change in them is desirable, whatever change may be required in other matters with which they are at times accidentally connected. In order to disengage the question from matters which do not properly belong to it, but are constantly treated as if they did, I will begin by specifying a few of these collateral and irrelevant questions.

In the first place, the question of capital punishment is altogether irrelevant to the question which we have to discuss, although they are constantly mixed up with each other. Can a madman commit murder? is one question. Ought a madman convicted of having committed murder to be hung for it? is quite a distinct one. The question whether a madman can commit murder depends on the questions, What are the mental elements of the crime of murder? How far does the fact that a man is mad prove the absence of those mental elements, or any of them? The question whether a madman or any man ought to be put to death for murder, or any other crime, is not a legal question at all. It is a question of policy and morality, upon which those who agree in the legal principles relating to the subject, may and do differ widely.

In the next place, all questions of procedure are irrelevant to the question which we have to discuss. The most important of these is the question of experts or skilled witnesses—a question of great interest, and on which part of the time of this Association might be usefully employed. Whether, according to our present English practice, questions of responsibility and competence should be left to a jury directed by a judge, and instructed by the evidence of scientific men; or whether, according to the practice which prevails in some other countries, particular questions should be referred to scientific persons

chosen for the purpose, whose decision should be practically, or even formally, binding upon the tribunal which has to decide upon the main question, is, no doubt, a very important problem, but it has nothing to do with the question before us. It is one thing to say how the fact of madness, when established, is to be dealt with; it is another thing to say how that fact is to be established.

These observations are so obvious that they may appear superfluous, but no one who has not watched the progress of public opinion upon such topics, and observed the difficulty of getting those who are not familiar with legal principles to separate the principle from the application, can imagine how easily people are led by such topics to suspect unsoundness in principles, when in fact they have no evidence of anything else than imperfection in the means by which those principles are applied to practice.

Misconception of this kind is so natural, and yet so important, that I venture to attribute to it the whole of the difference which does certainly exist between the medical and legal professions on this subject. It lies in a confusion between the evidence by which a proposition is proved, and the proposition to the proof of which that evidence is directed, and it appears to me that if those eminent members of the medical profession who charge the law of the land with ignorance and cruelty in the principles which it has adopted on this subject, kept this distinction clearly in view, they would see that the law is neither cruel nor ignorant. The principle on which the law deals with "questions of responsibility and mental competence," and on which, as I shall contend, it ought to deal with them, is that madness is evidence of irresponsibility and incompetence, but that it does not constitute irresponsibility or incompetence. You will perhaps allow me to dwell for a short time on this distinction, because when clearly understood it will serve as a clue to guide us through the whole subject. The difference between what is in evidence and what is in issue, is perfectly familiar to lawyers, and in English law the line is drawn with peculiar precision by the form of pleading, and by the habit of referring matter of law and matter of fact to different tribunals, but the distinction is not equally familiar to others, as appears from the observations made by medical witnesses on trials in which sanity comes into question. Such phrases as the "legal test of insanity," are constantly used by writers on medical jurisprudence, and the line of argument usually followed by such writers is to show cases of insanity which escape this legal test. Hence they argue that the "test" is fallacious. This would be much to the purpose if the law did lay down "tests of insanity," or even inquired at all into the existence of insanity; but this is seldom the case, and never in a criminal trial; and never, as I think, when the question of civil competence arises. In the criminal trial the issue is usually whether or not the act was wilful or malicious; in a civil case, it varies according to circumstances. If the validity of a will were in question, the issue would be whether or no there was "a disposing mind." The existence of madness would be evidence

against will or malice, or against the existence of a disposing mind, but the issue would not be sane or mad. In less technical words the law of this country considers madness as one of the facts which the jury will have to consider in determining the question whether the prisoner did wilfully and maliciously kill, burn, or steal, or whether the testator had a disposing mind when he made his will, but it does not consider that it is conclusive proof of the negative. This may be right or wrong. I think it right, and will give my reasons for that opinion immediately, but whether it is right or wrong, it is impossible to criticise the law fairly, or to understand the way in which it is administered, unless this distinction is kept constantly and fully before the mind.

With these preliminary explanations as to the limits of the subject to be discussed, I will now proceed, first to state, and next to justify, what I conceive to be the principle on which the law of this country does deal and ought to deal with questions of responsibility and mental competence in civil and criminal cases respectively.

The principle on which the law deals with all human actions is to classify them according to the different elements of which they are composed, and to affix to them such consequences, either civil or penal, as may be thought expedient, according to the presence or absence of this or that particular element. All actions are ultimately composed of bodily motions and mental dispositions. The action, for instance, of writing a letter is composed of certain motions of the hand over the paper, the presence to the mind of certain thoughts, and that direction of the mind towards the object to be attained, which we call an intention to express those thoughts in words. Take away, from whatever cause, any one of these elements, and the action is not done. Those, for instance, who believe the stories which some of us have read in the papers of persons whose hands were suddenly possessed by spirits which used them as mere tools to write with, would not say that the person with whose hand such a liberty was taken wrote what was written. For ordinary language, and for ordinary purposes, it is not necessary to enumerate with any great precision, the elements, either bodily or mental, of the actions which we describe. There is no inconvenience, for example, in leaving it uncertain whether the words, "write a letter," would include the case of a man writing a letter in his sleep, because we are not tied down on all occasions to the use of any one phrase, but are able to suit our language to the particular matter in hand; but the language of the legislator must be fixed, and when he defines an act which must draw after it important consequences, civil or penal, he must define its mental as well as its external elements. Thus, for instance, the law defines a will to be a written instrument of a particular kind, executed with particular formalities, by a person who at the time has a disposing mind. It defines a murder to be the killing of a man, wilfully, and with malice aforethought; and it further defines malice aforethought to consist of the aggregate of many different intents, such, for instance,

as an intent to do grievous bodily harm, or an intent to resist a lawful apprehension. In general, it suggests as a definition of crime, some such proposition as the following :—

A crime is a wilful and malicious act, forbidden by the law under pain of punishment. Wilful means voluntary, and malicious means an act done notwithstanding a knowledge of the character of the act, and notwithstanding a knowledge that the law has forbidden it.

Hence every crime has as a rule three moral conditions :—

1. Its character as a voluntary act.
2. Knowledge of the character of the act.
3. Knowledge of the fact that the law forbids it.

Of these three moral conditions the third may be dismissed from our consideration, inasmuch as the law, for obvious reasons of convenience, and even of necessity, conclusively presumes its presence in every case whatever. There remain, therefore, two moral conditions which by the definition of crime must be combined with any set of bodily motions, in order that the whole taken together may make up a crime. They are, will to do the thing and knowledge of its character.

At the risk of appearing to waste time in dwelling upon what is perfectly plain, I will shortly illustrate this :—

The meaning of a wilful or voluntary act is, a set of bodily motions preceded by an appropriate act of the will. This can be made no clearer, simply because the only evidence to be had on the subject is that which each of us carries about in his own person. There are a certain class of wishes or desires which as a fact are instantly followed by corresponding bodily motions, and we call a motion, or a set of motions, voluntary, if from circumstance they appear to us to have been preceded by a wish of that class.

The phrase "knowledge of the character of an action," requires more explanation. It is impossible to give a precise definition of it, but it is easy to give a description sufficiently complete for practical purposes. If an ordinary man who has had the usual experience of life, has arrived at a competent age, and is in a normal state of health, commits a crime—a theft, for instance, or a robbery —he knows at once, not merely that he has taken his neighbour's watch or purse, but that he has done an act which seriously injures his neighbour, which he would resent if he found it out, and would resist if he were aware of its perpetration ; which mankind at large would condemn for a great variety of obvious reasons, and which he (the criminal) must conceal if he desire to avoid the consequences. This, at least, the rudest, the most ignorant, the most depraved person, who has mixed at all with human creatures, would be aware of. No one could fail to know it, who knew more of the world than Caspar Hauser, or Peter the Wild Boy. Almost everyone would, in addition to this, know more or less of the moral and religious considerations connected with the subject, but however different might be the descriptions which different people would give of what I have called the "character" of a crime,

there can be no doubt that the general cast of their thoughts on the subject would, as a fact, be much the same, whatever may be the theories by which that identity ought to be accounted for. Couple this amount of knowledge with the power to do, or abstain from doing the act in question, and you have what I believe to constitute competency or responsibility in English law, whether the consequences of the act to be done or avoided are civil or criminal. It is obvious that the amount of knowledge required to constitute competency in relation to any particular act, will vary indefinitely according to the character of that act. For instance, the amount of knowledge which is required in order to make a will is much greater than that which is required in order to abstain from committing murder. The one act is much more readily understood than the other, and the circumstances necessary to its right appreciation are fewer and simpler. It would be difficult, and on the present occasion irrelevant, to go into the question, what amount of knowledge is necessary to enable a man to do this or that act, to enable him to estimate the nature of a crime, a will, a contract, to enable him to manage his own affairs, to enable him to appreciate the reasons for speaking the truth, a presumed sense of which on the part of witnesses is the ground of our giving credit to testimony. All these are indeterminate questions, which can be decided only in reference to individual cases as they arise, but in general it may be affirmed that to competency in any form, whether that of competency to commit a crime, to make a will, or to give evidence, will on the one hand, and a certain amount of knowledge on the other, are essential. It is, however, important to observe that knowledge must be interpreted to mean not merely memory but judgment. To make a person competent to make a will, he must not merely be able to remember what a testator's powers are said to be, and what are the circumstances of his own family, but he must also have the power of drawing reasonable inferences upon the subject, of forming such opinions on the facts before him as men usually form.

If I am right in asserting that this is the general principle of the law of England in respect to competency, I next assert that it is the true principle, and that it ought not to be altered. Its expediency is so clear that I hardly know how to prove it. It may, however, be observed in general that the fundamental principle of all law whatever, is that men are reasonable creatures, acted on by motives, which motives the law supplies in particular cases, where nature has not supplied them in sufficient force or proximity to secure the general welfare. As these motives act through and by the reason, the very existence of law assumes reason and a certain degree of knowledge on the part of those to whom it is addressed. It assumes that a man will know enough of the course of human events to be able to understand the nature of a crime, and the reasons why it is punished, the general effect and purport of wills and contracts, the nature and importance of judicial testimony, and the like. He must also be in a position to draw from the facts before him ordinary

inferences. There is no use in saying, "Whoever commits murder shall be hanged," unless the person addressed is capable of adding, "If I kill A. B. to rob him I shall commit murder, and if I commit murder I shall be hanged." These things the law must of necessity assume if it is to be effectual at all, just as we assume in all the communications of life, that men know their native language well enough for the common purposes of life. It is, however, waste of time to prove that the general notion of competency above described, is one which every wise legislator would adopt. I do not know that any one disputes it.

It is further undisputed that the existence of this degree of competency in any particular person, and in reference to any particular act, must be assumed till the contrary is proved; but this is subject to significant conditions. It is assumed that every one above the age of infancy has the power and knowledge necessary to enable him to commit a crime, and that every man and every unmarried woman of more than twenty-one years of age is competent to make a will. It is assumed that infants are competent to contract for certain purposes, and adults for other purposes, and the burden of showing the absence of competency in any particular case, is always thrown upon those who allege it.

The difference between the presumption made in different cases shows how real and positive the legal notion of competency is. Competency in relation to a crime is such a degree of knowledge and judgment as usually exist in a child of fourteen years of age. Competency in respect of a will is such a degree of knowledge and judgment as usually exist in a man of twenty-one. Competency in respect of testimony is such a degree of knowledge and judgment as usually exist in a child old enough to know the nature of an oath. The fact that, quite apart from the question of sanity or madness, various standards of competency have been established for different purposes is one of considerable importance in the discussion of the subject.

I may, perhaps, appear to owe you an apology for having dwelt so long upon a question apparently so simple as that of competency, but I found a difficulty in explaining my view of the course which the law ought to take with regard to insanity, unless I began by showing how its existence comes into question at all.

First of all, what is insanity or madness? Legally it is the negation of competency. If sane or sound means competent, insane means unsound or not competent; but medically insanity or madness is the name of a disease or group of diseases, and every one who has that disease is said to be insane. This disease consists in the aggregate of certain symptoms. Let us suppose, for instance, that it consists in inflammation of the brain (I merely use this as an illustration), then everyone whose brain is inflamed is medically insane, but he is not incompetent, or of unsound mind, in the legal sense, unless that inflammation has, in fact, caused a confusion in his wits, his thoughts, or his powers of judgment in relation to the particular act in question. A somewhat similar difference between the extent

of a medical and legal phrase occurs in relation to birth. A child is said by medical men to be "born alive" as soon as it has breathed, and has an independent circulation; legally, a child is "born alive" only when it is separated from the body of the mother.

How then does insanity, in the medical sense of the word, come into question at all in a court of law? The explanation just given of the medical meaning of the word answers this question. Its relation to law, whether criminal or civil, is that it is a fact given in evidence by a party interested in rebutting the legal presumption of competency as applied to a particular case. Many criticisms on the law as it now stands, would, I think, be spared, if their authors were to ask themselves in the first instance, whether they quarrel with the legal notion of competency, and whether they object to the rule, that it is to be assumed in the first instance in large classes of people, and that the burden of disproving it lies on those who allege its absence.

Taking, then, this view of competency, and of the legal presumptions respecting it, I come to consider the case of a particular person alleged to be incompetent. This means, as I have already explained, a man alleged to be destitute in respect of some particular subject matter, such as the commission of crime, or the making a suit or contract, either of will or of that degree of knowledge which the law requires for that purpose. How is this to be shown? By proof that he was mad. And how will proof that he is mad show it? The answer to this must be, because all madmen are deficient in the qualifications in question. This, of course, is an answer if the fact is so. If it does so happen that there is in nature a disease which, under all circumstances, in all its stages, and in all persons who are affected by it, destroys those states of mind which the law, for purposes of its own, and irrespectively of madness, has declared to constitute competency—then no doubt proof that a person is mad will be equivalent to proof that he is incompetent for any purpose. But this is notoriously not the case. The very ground of most of the attacks directed against the law, is that what is incorrectly called the "legal test of insanity" includes many mad persons. In other words, the objection comes to this, that whereas many mad persons are competent, the law treats them as competent; that the law does not distinguish between a competent madman and a competent sane man. Why should it? I have never been able to get an answer to this question. The answers which I have received, usually, in fact, always, as far as my experience has gone, resolve themselves into arguments to show that the apparent competency is not real; but such arguments are out of place as against the law as it stands; for the law as it stands would admit them, and would attach to them whatever weight they may deserve as reasons for disbelieving the competency of the particular person. No arguments against the existing principles of the law are really entitled to attention, unless they go the length of attacking the principle of competency itself, of showing that there are cases in which men

ought to be treated as incompetent, although they are perfectly able to form a rational estimate of the subject matter with which they have to deal, and are free to act upon that estimate or not as they please. I must confess, for my own part, that I have never been able to form the faintest conception as to what is meant by such a state of mind.

For these reasons I consider that the principle on which the law ought to deal with questions of responsibility and mental competence is perfectly clear. It ought to define the mental elements of the actions with which it professes to deal, and it ought to treat their presence in any particular case as a question of fact to be determined by evidence, the burden of proof lying on the person who denies their existence. Negatively, it ought not to assume the truth of broad general propositions lying beyond its proper sphere, and belonging to physics or psychology. It ought not, for instance, to lay down the general rule that madness in all cases, and under all circumstances, destroys competence, but to require proof that it actually has done so in the particular case.

I might stop here, but in order to show how far the practice as well as the theory of the law is satisfactory, it will be desirable to enter into the question of madness and its effects in different forms somewhat more particularly. The complaints made by medical men of the state of the law are in reality, perhaps I should say, ought in reality, to be directed rather against its practice than against its theory, and I must confess that it would be hard to vindicate the verdict of juries from the charge of a good deal of ignorance and caprice. This, however, is not the fault of the law. The administration of justice in a given country will always faithfully represent the general level of intelligence and knowledge in the country, and it is not to be denied that so long as great ignorance exists upon matters of physical and medical science in all classes, physicians will occasionally have to submit to the mortification of seeing not only the jury, but the bar and the bench itself, receive with scornful incredulity or self-satisfied ignorance, evidence which ought to be received with respect and attention. An ignorant jury, under the persuasion of counsel, sharper, but, perhaps, not less ignorant, will often return a wrong verdict, and it may be that judges, whose attention has been directed to subjects of a totally different kind, will not be able to prevent miscarriages of justice. These are, no doubt, serious evils, but they can be remedied only by the diffusion of sound knowledge on the subject. There is no ground whatever for altering the principles on which the law proceeds. With these observations I will proceed to observe upon the way in which, under the present state of the law, the fact that a man is mad may be made available as evidence of his incompetency.

I will take first the case of insane delusions, and will illustrate the way in which the law deals with them for various purposes. There has been much discussion as to the proper definition of a delusion, but the word, when undefined, seems to be clear enough for practical

purposes. Let us suppose then, that a man is under the delusion that his finger is made of glass, and that whilst that delusion is subsisting he commits a murder, makes a will, or is called as a witness in a court of justice. Let us further suppose that the veil which hides from us the operations of the mind is removed, and that instead of being compelled to argue from what we do to what we do not see, we are able to trace all the operations of his mind throughout, until we come to the final results. This will give us a view of the real relations of delusion to their different actions, and also of the way in which the law would deal with it.

I presume the delusion would arise, in the first place, from some disease which would affect the brain, and so disturb its operations to such an extent, as to produce the delusion by steps unassignable as yet by anyone however learned. Suppose that the person in whom this change took place was a very wicked man, and that, long before the origin of the disease, he had conceived the deepest malice against his neighbour, and planned his assassination for some common bad motive. Suppose that he carried on this design during the whole course of the growth of the delusion in his mind, and carried it out with the fullest knowledge of the nature of the act he was doing, with perfect freedom to do it or not, and with no more reference direct or indirect to the delusion than to any other irrelevant matter.

Suppose, next, that the delusion was that the man killed was a wild animal, and that he shot him in self-defence, or for sport.

Suppose, thirdly, that the delusion was one of a train of delusions connected in some fantastic way with the result. For instance, the man might think that his finger was made of glass, and that his enemy had bewitched him, and for that reason he might shoot him.

Here we have three cases. One in which the delusion is altogether collateral to the mental conditions of the crime, although they happen to coexist in the same person ; *i.e.*, we have a clear case of a crime committed by a madman.

In the second case the element of knowledge of the nature of the act is wanting ; there is no crime at all, but in this instance it is not the insanity but the effect of the insanity which renders the act innocent. The same delusion produced otherwise than by disease would produce the same effect. Suppose, for instance (without carelessness), a sportsman shot a keeper, taking his leather gaiters for a hare, the case would be precisely the same.

In the third case there is a defect of judgment which is an element of knowledge. It is quite true that you would not be justified in shooting a man because he bewitched you, or because you thought so ; but a person who did think so, and who also thought that his finger was made of glass, is in so strange a state, that no one can be sure as to the way in which he reasons, or the grounds on which he acts, and he is therefore, it would seem, entitled to the benefit of a doubt.

I have been supposing that the prisoner's mind is open to us, and

that we know, as a fact, how and why he acted as he did. But in practice this is never the case. The external facts are always the data from which the internal facts, the mental elements of the action inquired into, must be inferred. We may know that the prisoner shot the deceased; that the prisoner believed his finger to be made of glass; that he had no apparent motive for shooting the deceased; and that he acted afterwards as if he had done something innocent or praiseworthy. We may know on the other hand, that he had the strongest possible sane motive for shooting the deceased; that he had for years threatened his life; that he took every precaution to avoid observation and to conceal his crime; and that he used every means to profit by it. In the first case we should have little difficulty in treating the act as a mad, and in the second, we should have as little difficulty in treating it as a sane one. The evidence might, of course, be of any intermediate degree of strength, and might give rise to questions of the greatest possible nicety; but this does not affect the nature of the question to be determined, but only the difficulty of deciding it. In all cases under the law as it now stands, the court would have to try to conclude from all the circumstances of the case, to which of these classes the particular act in question belonged. It would be open to the prisoner's advocate to ask the jury to draw from the fact that the man thought that his finger was made of glass, the inference that he was not in a fit state to appreciate the character of his conduct. It would be the duty of the counsel for the Crown to point out the facts, such as deliberation, concealment, threats, antecedent malice, and the like, which went to show that he did in fact act upon ordinary motives, and for an end well understood, and distinctly contemplated; and it would be for the jury to decide whether the existence of the delusion raised a reasonable doubt as to the presence of the mental elements of crime; namely, freedom of will, and the normal degree of knowledge including in that word, coolness of judgment, as well as the mere recollection of facts.

What can be more reasonable than this? Would it be wiser or more humane to say, The mere existence of any delusion whatever shall at once free the subject of it from all criminal responsibility for his actions, even if they are altogether unconnected with his delusions, and can be shown to be so by clear evidence? How would the physicians and attendants at Colney Hatch or Hanwell like the thousands of patients under their charge to be told that when they were in the least degree dissatisfied with their treatment in the asylum, they were at full liberty to murder their keepers, and that when they were taken out for excursions they might, as far as the law was concerned, murder or ravish any person they met with, or set fire to any rickyard in the neighbourhood? The law must be precise, and if it does not consider delusions as evidence of irresponsibility (as it does at present) it can consider them only as constituting irresponsibility or incompetency, and this would be monstrous.

The law as to criminal responsibility is perfectly well settled, but as to civil competency, it is by no means so clear, though I think anyone who will study the cases on the subject, will come to the conclusion that their doctrine is substantially the same as that which has been laid down in courts of criminal law. As I am not arguing the question forensically, it will not be necessary to examine these cases minutely, but I may shortly refer to a few of the most important of them. The first was *Cartwright* v. *Cartwright*, decided by Sir W. Wynne, in 1793. The next was *Dew* v. *Clark*, decided by Sir John Nicholls in 1826. This was followed by *Chambers* v. *Yatman*, in 1840, and *Medway* v. *Croft*, in 1843, and this again by *Waring* v. *Waring*, in 1848. These cases have been subsequently acted upon on other occasions, of which perhaps the famous case of Dyce Sombre's will was the most remarkable.

In all of these cases there was more or less madness in the testator. In *Chambers* v. *Yatman*, the testator showed that he was under a delusion a few days before the will was made, and he cut his throat three days afterwards. In *Cartwright* v. *Cartwright*, the testatrix was actually in confinement in a mad-house when her will was made, and had a strait waistcoat taken off to enable her to make it. Yet in each of these cases the will was affirmed, because there were circumstances which went to show that when the will was made the testator knew what he was doing, took a rational view of the disposal of his property, and acted upon it in a rational way. In *Cartwright* v. *Cartwright*, Sir W. Wynne said, "Now I think the strongest and best proof that can arise as to a lucid interval, is that which arises from the act itself; that I look upon as the thing to be first examined, and if it can be proved and established that it is a rational act rationally done, the whole case is proved."

In *Dew* v. *Clarke*, the will was set aside because it was shown that the testator was under a delusion about his daughter, whom he had disinherited, but the judge was most careful to lay down the doctrine that the delusion destroyed competency, not absolutely, but so far only as its influence extended. The following, amongst other passages in the judgment, sets this in a clear light. He first defines a delusion as existing "where the patient conceives something extravagant to exist which has still no existence whatever but in his own heated imagination, and where he is incapable of being, or at least of being permanently, reasoned out of that conception." He then says, "I look upon delusion, in this sense of it, and insanity to be almost, if not altogether, convertible terms, so that a patient under a delusion, so understood, on any subject or subjects in any degree, is for that reason essentially mad or insane on such subject or subjects in that degree." Elsewhere he observes, "If by the position that partial insanity is unknown to the law of England, it be meant and contended that the law of England never deems a party both sane and insane at different times upon the same subject—both sane and insane at the same time upon different subjects—there can scarcely be a position more destitute of legal foundation, or rather,

there can scarcely be one more adverse to the stream and current of legal authority."

These extracts exactly convey my notion as to what the law on this subject ought to be. Was the act a rational act, rationally done? is the true question. Were the thoughts of the man in respect to this matter mad or sane? Of course a will, rational on the face of it, may in fact have been mad. Of course the bare fact that there is no apparent connection between the delusion and the act does not prove that the act was rational. A delusion, however remote from the act, is evidence as far as it goes, against the sanity of the act, but it is no more than evidence, the weight of which is to be estimated in each particular case.

I am well aware that the case of *Waring* v. *Waring* appears to go further than this, and no doubt it does supply a case in which the court did infer from delusions not connected in any assignable or at least obvious way with the will, that a will which was certainly strange, though not on the face of it irrational, was void. If I were arguing the matter forensically, I think I should be able to show that the case of *Waring* v. *Waring* does not go farther than this, and that it does not in any way alter the principles laid down in the earlier cases, but as we are now considering what the law ought to be, and not what it is, it is not necessary to enter upon this question.

Viewing, then, the question as one of expediency, let us, as in the case of crime, suppose that the workings of the testator's mind, in reference to his will, could by some moral photography be accurately registered, so that we were able to trace out every thought that he had ever had on the subject; and suppose it appeared that in point of fact all his thoughts upon the subject had been perfectly proper and rational, and that any delusion present in his mind at the same time had had no sort of connection with them, why should not his will be good? Why should he be prevented from discharging some act of clear justice—from satisfying the expectations of an adopted child which his own conduct had excited, or fulfilling a promise of which he had already received the benefit, simply because he was so far under the influence of some disease in his brain as to suppose that one of his fingers was made of glass? No doubt the existence of a delusion must always be strong evidence against the competency of a testator. It might, and I think it ought, to lay upon those who propounded his will the burden of proving his competency to make it; and, I would add, that similar proof in the case of a person accused of crime ought in general to throw on the prosecution the burden of proving express malice; but in each case the question ought to be as to what was in fact the state of mind of the prisoner or of the testator as to the particular act which might be the subject matter of inquiry.

The case of those forms of madness in which there is no confusion of thought, present very great difficulty in practice, but they appear to me to be perfectly simple in theory. I refer to what are called

cases of impulsive or moral insanity. I think there is a misconception between the medical and legal professions on this subject. It is common in medical books to meet with assertions that the law "does not recognise moral insanity," or "does not admit the plea of moral insanity." Such expressions are fundamentally incorrect. The law allows any fact to be proved which tends to show that the state of mind which, according to its principles, must be coupled with certain bodily motions in order to produce a crime, were, in fact, present or absent on a given occasion. Now, if it could be shown that there was a form of disease which, in fact, prevented its victims from apprehending moral distinctions, so that they were totally unable to understand that given acts produced great distress and alarm; that people at large disapproved of and punished them; that they were usually believed to be punished in another life, and so forth, the fact that a man had long suffered under such a disease, would, no doubt, be evidence to show that he had not that degree of knowledge which the law presupposes in those to whom it addresses itself. So if it be shown that a sudden impulse to destroy life arising from disease, is so powerful that it cannot be resisted, the act done under its influence is not voluntary, and therefore is not a crime; but the mere presence of a resistible impulse to commit a crime, is no more an excuse for doing it when disease is the cause than when anything else is the cause. Take the case of a resistible impulse to commit rape. What difference could it make whether disease was or was not the cause of the impulse. It may be true that judges and juries receive the allegations of the existence of moral insanity or insane impulses with too little respect. It may be that physicians themselves suggest their existence without proper grounds. Of course there always will be a disposition on the one hand to view with suspicion a strange and novel explanation of facts which are perfectly intelligible if an unwelcome but simple explanation is accepted. On the other hand, there will always be amongst scientific men a strong disposition to see illustrations of a favourite theory in facts which do not of necessity require such a solution. This cannot be avoided, but it has nothing to do with the way in which the facts themselves are related to judicial inquiries.

I may observe, in conclusion, that it appears to me that the difficulty which is supposed to involve this subject, is either confined to the application to particular instances of principles which in themselves are perfectly clear, or is derived from that fertile source of error and confusion—the habit of supposing that every word in the language corresponds precisely to some distinct state of facts. "Insanity," "madness," and the like, are very familiar words, but, in fact, they have no precise meaning. They are merely the names of a disease, the nature of which is matter of controversy, and the consequences of which are not uniform or invariable. Eminent writers have traced the growth of madness from its earliest and apparently most trivial symptoms, up to its final consummation. But a disease is nothing more than the mere total of its symptoms.

Suppose a man were to go through them all; suppose for instance he were to begin with want of sleep and low spirits, and to go on to a confirmed state of complete lunacy. In the only accurate sense of the word madness, that man's madness would comprehend the first symptoms as well as the last; it would include the first fit of low spirits, the first bad night, as much as the wildest ravings of the final stage of the disease. Yet who would say that he was irresponsible or incompetent as soon as he began to have bad nights? Where, then, are we to draw the line? Where can we draw it except where the law draws it? He is incompetent or irresponsible in respect of any particular act as soon as his disease has made such progress as to destroy or suspend the mental elements of competence or responsibility which the law requires in order to give validity or to attach responsibility to such an act. To determine whether this is so in fact, may often be a matter of great difficulty. But the principles on which the matter depends seem to me so clear that I do not understand how they come to have been so much misunderstood.

The Legal Doctrine of Responsibility, in relation to Insanity.
By S. W. North, M.R.C.S.

For my presence in this Department as the author of a paper, I feel that some apology is necessary, seeing that it may well be asked, How can one whose business it is to treat disease know anything of law, or afford any assistance towards the elucidation of its difficulties?

My answer and my apology is, that for the equitable administration of the law, whether civil or criminal, it is not only desirable but necessary that due weight should be given to the teachings of science and those reasonable conclusions, the result of experience, which, though wanting the force of scientific demonstration, are nevertheless, even in the important affairs of life, often the sole data on which we have to rely in selecting any given course of action.

The practice of medicine presents a wide field and frequent opportunities for observing the infirmities of our nature, the influence of which in determining the criminality or otherwise of any given act the law with equal wisdom and humanity does not overlook.

Whether an act be right or wrong is not to be determined by the act itself (for under altered circumstances a similar act may be both), but rather by the motives which led to it, and the conditions under which it was performed; these determine its ethical relations, and the amount of responsibility attached to the agent. It is therefore of paramount importance in every inquiry to ascertain as far as possible not only the motives which led to any particular act, but also the conditions under which those motives came into existence, in order that it may be known to what extent the individual was at the time a free agent, and if he were not to discover the nature of the power by which he was constrained, and the limits of its influence. There can be neither vice nor virtue without freedom of action, the

smallest diminution of which necessarily modifies not only the social and moral relations of any given act but the responsibility of the actor.

What then are the conditions under which an individual may cease to be a free agent? They are various both in kind and degree. First, we have all those restrictions which arise in consequence of the natural limitation of human power, the coercion of others and the necessities of time and place, the individual being at the time of sound mind. Secondly, those causes which arise within, and are peculiar to the individual; of these by far the most important, and that with which alone we have to deal to-day is unsoundness of mind; to the nature of which and the limitations it imposes on human action, and therefore on responsibility before the law, I wish to direct your attention. And here I think the profession to which I belong may claim to be heard, not on questions of law, but on questions of health; not on the legal relation of any transaction, for that has already been determined by the legislature, but on the mental and physical condition of the individual at the time, and the relation of the act to those conditions. The point for the medical examiner to determine is not whether the transaction to be inquired into took place, or if it did, whether it was illegal; but what was the state of mind of the person at the time; was he sane or insane, and what relation existed between the act and his mental condition.

That which is true of the ethical relations of our acts is equally so of their psychological; the thing done affords no proof in itself, either of the nature or the quality of the mental operation which led to it, and therefore affords no proof either of the moral or mental condition of the actor. Again, the proof that the act itself was criminal or illegal, is no proof of the responsibility of the agent, for I take it, any dogma of the law to the contrary notwithstanding, that, if punishment is with justice to be inflicted, the person punished must, at the time of his offence, not only have known that his act was illegal, but must have been in possession of the power to act or to abstain. If the law recognises as a legitimate defence that an act in itself illegal was done under the coercion of others, it ought with equal justice not to overlook that coercion, which, though arising within the individual, and therefore not so patent to our understanding as that from without, does nevertheless according to the observation and experience of all who have had opportunities of making themselves familiar with the phenomena of mental disease, frequently hurry its victim into the commission of every species of crime and depravity with a power far more irresistible than anything which can spring from the influence of others.

The law is not, neither does it claim to be infallible, the highest encomium that can be pronounced upon it at any period of our history is, that at the time it reflected the wisdom and the knowledge of the age; this being so, it is obvious that its maxims must vary as the social state may require, or the results of scientific observation and research demand. Opinions which at one period might be said fairly

to represent the knowledge of the time, and to be in unison with the science and experience of the day, at another may fail to reflect either the one or the other. Whenever this is the case, whenever the exposition of the law is at variance with the teachings of science, or the settled conviction resulting from observation and experience, so surely is an element of doubt and uncertainty introduced into the administration of justice, prejudicial to the best interests of society, dangerous to public morals, and inimical to the sacred character of those solemn declarations under the sanction of which the law is administered.

In this unsatisfactory condition I believe the law to be at the present time in reference to the question of responsibility when unsoundness of mind is urged as a defence or pleaded in bar of punishment. Those qualities of mind, the possession of which is held as sufficient to constitute responsibility before the law, and therefore liability to punishment, are well-known by almost every physician of experience to be possessed to a greater or less extent by the majority of those whose insanity is beyond all doubt, and who ought not on any principle of justice to be held accountable for their actions, whatever the law may say to the contrary. This being so it ceases to be a matter of surprise that conflicts of opinion between medical witnesses and the court in cases where the question of responsibility arises, should be the rule rather than the exception, and that as a consequence, a grave element of uncertainty should be introduced into the result of these inquiries, especially in capital cases. Juries alive to the solemn responsibilities of their position will listen and give effect by their verdicts to the opinions of men whose experience ought to give them weight, despite the firm and emphatic enunciation of any legal dogma from the bench to the contrary. Even judges might be named, who, after denouncing, with all the weight of their authority the so-called visionary theories of mad-doctors, after warning juries in the most solemn manner to beware how they listen to doctrines so fraught with danger to the public peace, so subversive of all distinctions between vice and disease, have in the secret retirement of their own chambers, when freed from the trammels imposed by the technicalities of the law, listened to the sober voice of reason, and by their acts given the sanction of their approval to opinions, against which only a few hours before they had arrayed the authority of all the judges who in times gone by adorned the bench. That great discrepancies do exist between the opinions of medical and legal authorities on the question of responsibility where insanity is pleaded, and that as a consequence the verdicts of juries, especially in capital offences, are daily becoming more uncertain, are facts within the knowledge of all; indeed, to such an extent is the conviction of the uncertainty arising from this cause gaining ground, that the Society for the Abolition of Capital Punishment urges it as one reason why their views should be adopted by the legislature. This being so, it is of importance to the well-being of society and necessary for the equitable administra-

tion of justice, that, if possible these differences of opinion should be reconciled, and that when speaking on the abstract question of what constitutes insanity and a just ground of exculpation the court and the witness should have some common basis of agreement, otherwise it is impossible to arrive at the truth; without this the most solemn inquiry must of necessity frequently diverge widely from its object, and too often end in little else than a trial of strength between counsel and witness; if it do not, as I have on more than one occasion witnessed, end in something very like an investigation into the sanity of the witness.

Wherein lies the source of this difference of opinion; how has it come to pass that in scarcely a single instance is there a perfect agreement between the medical expert and the court when the sanity of an individual is in question? The cause of this difference, and the source of nearly all the difficulties with which every investigation is beset, especially in criminal cases, lies in the fact that the legal definition of insanity in its relation to responsibility, as set forth by the authority of the judges, is at variance with the knowledge and experience of the age, at least of those persons whose opportunity and attainments entitle their opinion to respect. In spite of this difference of opinion, judges continue with an almost wearisome iteration to repeat the opinions of their predecessors, and to direct juries that, "Notwithstanding a party accused did an act, which was in itself criminal, under the influence of insane delusions, with a view of redressing or revenging some supposed grievance or injury, or of producing some public benefit, he is nevertheless punishable if he knew at the time that he was acting contrary to law. That if the accused was conscious that the act was one which he ought not to do; and if the act was at the same time contrary to law, he is punishable. To establish a defence on the ground of insanity, it must be clearly proved that at the time of committing the act the party accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or as not to know that what he was doing was wrong. That a party labouring under a partial delusion must be considered in the same situation, as to responsibility, as if the facts, in respect to which the delusion exists, were real."*

Such is the exposition of responsibility in relation to insanity laid down by the judges; upon this view every jury empanelled to try the question, has been instructed since 1843. In August of that year, in the case of the *Queen* v. *Higginson* for murder, where the accused was undoubtedly imbecile, as deposed to by the officers and surgeon of the prison, Mr. Justice Maule instructed the jury,—"If you are satisfied that the prisoner committed this offence, but you are also satisfied by the evidence that, at the time of committing the offence, the prisoner was so insane that he did not know right from wrong, he should be acquitted on that ground; but

* Clark and Finnelly's Reports, Vol. X., p. 200.

if you think that, at the time of the committing of the offence, he did know right from wrong, he is responsible for his acts, although he is of weak intellect."* He was executed. He, whom an All-wise Providence had seen fit in His wisdom to afflict with an imbecility so great that jailors and attendants of the prison found no difficulty in testifying to it, was publicly executed, to satisfy a dogma of the law which has little or no foundation in fact.

Far wiser and based on a deeper insight into the difficulties of the inquiry was the answer of the same learned judge to the questions propounded by the House of Lords in the case of *Regina* v. *M'Naughten*, when he said, "I feel great difficulty in answering the questions put by your lordships on this occasion. First, because they do not appear to arise out of, and are not put with reference to, a particular case, or for a particular purpose, which might explain or limit the generality of their terms, so that full answers to them ought to be applicable to every possible state of facts not inconsistent with those assumed in the questions; this difficulty is the greater, from the practical experience both of the Bar and the Court being confined to questions arising out of the facts of particular cases: secondly, because I have heard no argument at your lordships' bar or elsewhere on the subject of these questions, the want of which I feel the more the greater is the number and extent of questions which might be raised in argument; and, thirdly, from a fear, of which I cannot divest myself, that as these questions relate to matters of criminal law of great importance and frequent occurrence, the answers to them by the judges may embarrass the administration of justice when they are cited in criminal trials." †

It would have been well for the cause of humanity and favourable to the development of sounder views on this difficult question, had the doubts entertained by Mr. Justice Maule been shared by his colleagues, and led them to hesitate before they attempted a dogmatic exposition of the nature and character of the mental elements which constitute responsibility, thereby placing an effectual bar to that slow but steady advance in opinion whereby the maxims of the law on questions of this nature may be kept in unison with the progress of scientific observation and experience.

That which was sought when the collective opinion of the judges was asked has certainly been attained; judges do now expound the legal doctrine of responsibility with more uniformity than was done in former times; but so far from this being followed by greater uniformity in the verdicts of juries, the reverse has taken place; too frequently the conclusions at which they arrive where the question of responsibility is at issue are at variance with both the law and the evidence, and thus a painful uncertainty falls on the administration of justice in one of its most solemn aspects; mainly I believe because the law is at variance with the knowledge of the

* Carrington and Kirwan's Reports, Vol. I., p. 130.
† Carrington and Kirwan's Reports, Vol. I., p. 131.

age, thus leaving juries to be swayed as their desire or inclination may suggest, by the opinion of witnesses or the dicta of the judge; the teaching of the bench has ceased to be authoritative, because doubts are entertained as to its correctness.

"To measure degrees of responsibility and adapt them to the variable conditions of disordered mind is a problem, upon the solution of which the whole medico-legal question of insanity rests. But how can responsibility be measured? Extension in time and place can be measured by duration and by substance; gravitation can be measured by weight, and power of various kinds by its effect on gravitation; even colour and such like qualities can be measured by comparison with a standard: but in what practical balance shall the responsibility of man for his actions be estimated? As the weight of a body is measured by the power it overcomes, so degrees of responsibility must be measured by the degrees of mental disorder, and by the amount of inflection they produce from the standard of health.

"A man having the knowledge of right and wrong, and in the possession of the power of choosing the one and refusing the other, is rightly held to be responsible for his conduct to his God, to his neighbour, and to himself. A man knowing and capable of discharging his duties to his God, to his neighbour, and to himself, is a sane man. A man who from any mental imperfection or infirmity is incapable of discharging those duties cannot be considered to be in a state of mental sanity, and cannot with justice be held responsible to do that which he is morally unable to do.

"It will be hereafter seen, that the neglect of this distinction between knowledge and power forms one of the fundamental difficulties of the question." *

Having thus indicated what the views of the law are on the question of responsibility in criminal cases—the substance of which seems to be this, that if a man knows the nature of the act he is doing, that is, knows what it is—knows, for example, that if he is cutting the throat of another man he is doing something which may cause his death—and if further he knows the act is contrary to the law of the land and if done will render him amenable to punishment, he is, in the eye of the law, responsible, and subject to the punishments imposed by the law upon wilful offenders—unless, it can be proved that at the time he laboured under such a delusion as would, had it been fact and not delusion, have excused the act. As, for example, if he were haunted with a delusion that the person he injured was about to kill him, or that he was a wild beast, then his act of murder might be excused because, had the delusion been a reality, he might, with success, have pleaded a justification for what he had done. If I understand the opinion of the judges on this point, as propounded in answer to the questions of the House of Lords—and in accordance with which every jury empannelled since that time to

* Bucknill's "Unsoundness of Mind, in Relation to Criminal Acts," p. 4.

try a criminal case has been instructed where insanity was pleaded in defence—the excuse afforded by delusions only extends to the terms of the delusions, and no matter to what extent the accused may be the victim of delusions, he is not to be excused if his delusions, being facts, would not excuse him. The concentrated wisdom of the law on the subject of responsibility may be summed up thus :— That, juries are to be told that if the prisoner at the time of his act knew what he was doing, and knew that it was illegal, the only kind of wrong of which the law takes cognisance, he is to be held responsible, unless the form of his delusion is in strict accordance with what, for want of a better term, we may call legal excuse.

To both these points in the legal aspect of responsibility I wish to direct the attention of the Department, my object being to prove, that a large proportion of insane persons who are by law confined in asylums, and therefore practically held by the law to be irresponsible for their acts—for I take it that if they have sufficient control over their conduct to render them responsible for their acts, they are improperly deprived of their liberty—do know right from wrong, do know that if they were to kill or injure another they would be liable to punishment; that others are the victims of delusions, the force of which deprives them of their moral liberty, renders them incapable of controlling their conduct, and prone to offences far beyond the term of their delusions, and therefore beyond the protection which the law affords to persons so afflicted. The whole doctrine of irresponsibility on the ground of insanity, as set forth from the bench, is I believe founded in error, is not supported by the experience of those conversant with the various phases of insanity, and would, if strictly acted upon, condemn to punishment nine-tenths of the lunatics who have had the misfortune to violate the law; such being the case, grave uncertainty is introduced into the administration of justice, and a tendency to lower the standard of respect for those solemn declarations under which it is administered.

Knowledge is not power, in the sense of giving its possessor control over his actions. If I were asked to name the faculty most frequently impaired in insanity, I should undoubtedly say the will, or that power by which we convert our thoughts into actions. Daily experience of mankind ought to satisfy the most superficial observer that will is not synonymous with knowledge; it must be patent to everyone, that apart from any question of vice or virtue, some men are weak, yielding readily to the temptations of circumstances, whilst others, from the mere force of their will, may be said scarcely ever to fall into temptation, and that nevertheless the virtuous knowledge and virtuous desires of the former may be of a far more exalted character than those of the latter. If this be true of sane men, how much more likely is it to be true of those, who, by reason of some disease of the mind have lost that faculty of co-ordination by which their thoughts are combined into regular and healthy operation. It would burthen my paper, and weary my

hearers, were I to quote all the eminent medical authorities at my disposal on this point—let one be sufficient. At a meeting of the medical officers of asylums, held in July last, after discussion and deliberation, the following resolution was unanimously adopted: —"That so much of the legal test of the mental condition of an alleged criminal lunatic which renders him a responsible agent because he knows the difference between right and wrong, is inconsistent with the fact, well-known to every member of this meeting, that the power of distinguishing right and wrong exists frequently among those who are undoubtedly insane, and is often associated with dangerous and uncontrollable delusions." Were the fact of this being the experience of all alienist physicians in dispute, I could quote the authority of men from every country in Europe in support of it; this is not necessary, I do not believe anyone will venture to question the fact. I cannot, however, forbear quoting the words of an eminent writer on this subject.

"It may also be asserted, as the result of observation and experience, that in all lunatics, and even in the most degraded idiots, whenever manifestations of any mental action can be educed, the feeling of right and wrong may be proved to exist. The education of idiots and *crétins* has proved that there is no zero in the human mind; and the success of the moral treatment prevailing in lunatic asylums has demonstrated that insanity does not neutralise the influences by which the moral government of the world is effected. But if insanity does not remove these innate principles, does it on that account leave persons under their influence wholly responsible for their actions? Certainly not. Responsibility depends upon power, not upon knowledge, still less upon feeling. A man is responsible to do that which he can do, not that which he feels or knows it right to do. If a man is reduced under thraldom to passion by disease of the brain, he loses moral freedom and responsibility, although his knowledge of right and wrong may remain intact."* The whole error, and the secret of all the confusion that has arisen lies in the fact, that the doctrine of responsibility has been educed from a consideration of what holds good in a state of perfect sanity and integrity of the faculties, without any reference to, or observation of, the condition of insane persons in this particular. The opinion of the judges is doubtless a reflex of their own self-consciousness, but contains no element derived from observation of disease.

It now only remains for me to say a few words on the nature of insanity, and to seek therefrom on theoretical grounds to establish my conclusion that knowledge is a faculty apart from volition.

Of the nature of the thinking principle, that by which man becomes a moving power in the world, we know nothing beyond the fact that it is associated with a nervous system, upon the integrity of which it is dependent for its healthy manifestation. This nervous system we know to be compounded of various parts or centres, each having

* Bucknill's "Unsoundness of Mind in Relation to Criminal Acts," p. 59.

a distinct function, motion, sensation, perception, and that something we call reason. In a state of health these parts and their functions are all mutually associated, working together in the production of any act, and obeying that force which we call will. This intimate blending, intricate co-operation, and mutual dependency, which the various parts preserve towards one another, must be carefully distinguished from their integral unity; for although in a state of health they all co-operate in the production of the acts which characterise our daily life, it does not follow but that under altered circumstances they may become dissociated, separated from each other, and removed from the control of the will, thereby giving rise to the phenomena which are peculiarly characteristic of insanity. That this dissociation from the faculty of the will does take place as regards some of the functions of the nervous system—motion, for example—is a fact with which every medical practitioner is familiar. The various forms of convulsive disease remove from the control of the will, parts and actions which in a state of health are subservient to it; what is true of one part may be true of another, though it may not be so patent to our observation. In insanity it is notorious that the faculties of attention and comparison are impaired, imparting to the mind of the sufferer a tendency to dwell on, or be influenced exclusively by, the impression of the moment, without any reference to its collateral relations; in this way the will is enfeebled, and sensation may readily be converted into action without its intervention. This seems to be the condition of most insane persons whose insanity is characterised by a tendency to impulsive action; there may be no impairment of knowledge, the act follows the sensation or idea just as convulsive action follows the irritation of a nervous centre—in the same way, ideas, sensations, or impressions become absolute; the mind, so far as the particular idea, sensation, or impression is concerned, losing the power of preserving its collateral dependencies, is forced into subjection by it; herein we have an explanation of the origin of the various forms of hallucination and illusion, and can understand why it is that they assume the mastery over their victim. The loss of the faculty of attention seems to depend on some altered condition in the nutrition of the brain, its nutrition is not uniform, and thus preponderance is given to the function of some parts over others. The recognised causes of insanity are such as are also well known to disturb the function of nutrition. Insanity as a disease, has its origin in some disturbance of the power by which the different elements of the mind are co-ordinated and reduced to the subjection of the will; as a defect, as in idiotcy and imbecility, it is due to a want of power, from defect of parts. Loss of power, I venture to say, is a more universal characteristic of insanity than loss of knowledge, and as such ought to receive due consideration from the law when the question of responsibility is at issue.

A word in reference to delusions and their relation to responsibility, will suffice for what I wish to say under this head. According to the opinion of the judges, delusions can only be pleaded as an

excuse to the same extent that the term of the delusions could be if they were facts and not delusions. A man may lawfully kill another for the preservation of his own life, he may be excused on the plea of insane delusion, if he kill another under the delusion that his life is in danger from the individual he slays, but he cannot be excused on the plea of insanity if his act exceeds that which would be lawful were his delusion fact. From this I infer that the law does not regard the presence of delusions as an indication of general insanity, but rather as errors of opinion, having no influence beyond the immediate point to which they refer; forgetting, that in a healthy mind even erroneous opinions exercise an influence over a man's general conduct and judgment beyond the facts of the case in question; and still further unmindful of the fact that if the mind be so impaired that a man cannot correct his delusion, but surrenders his freedom of action to its influence, he is not likely, accurately, and with due reference to the maxims of the law to measure the amount of his violence towards the person he insanely believes about to injure or insult him; the notion that responsibility can be measured by the terms of a delusion is founded in error. The presence of delusion indicates a mind shaken in every part, like a building tottering to its foundation, no one can say what moment may see it involved in hopeless ruin. The very case on which the whole question arises, is a notable example of an insane act, far exceeding that which was lawful according to the terms of the delusion, committed by a man who at the time had doubtless a clear understanding both of the nature, and quality, of the act, and of its criminality before the law; influenced by his delusion he became for the time both the lawgiver and the executioner of its sentence. So it is with all insane persons, especially those afflicted with delusions; they are, whilst under their influence, a law unto themselves; reason has lost her empire, the power of the will has become feeble or destroyed, and the faculties of the man, powerful for good or evil, freed from the restraint of reason and will, become obedient to the whim or caprice of the moment. Passion, that master-spirit, so difficult to control when the powers of the mind are intact, assumes the reins, and drives the victim of disease into every act of vice and extravagance which the feeling of the moment may suggest. The most difficult cases to deal with, both in civil and criminal courts, are undoubtedly those where the mental unsoundness is due to defect rather than disease, where the mental powers are feeble,—especially those which enable a man to govern his conduct under the stimulus of excitement or passion; in the majority of these cases, the animal instincts and propensities remain intact, whilst the reasoning and governing powers are enfeebled or lost.

"In hospitals for the insane," * says Georget, "there is always a certain number of imbeciles who do the coarser work of the house, or serve as domestics and assistants to the regular officers. They

* Ray's "Medical Jurisprudence of Insanity," p. 79.

become sufficiently intelligent at last to perform their duties well, to sweep the courts, carry burdens, move machines, execute simple commissions, and know the use of money to procure various enjoyments. But they have no idea, or a very imperfect one, of society, laws, morality, courts and trials; and although they may have the idea of property, they have no conception of the consequence of theft. They may have been taught to refrain from injuring others, but they are ignorant of what would be done to them if guilty of incendiarism or murder. Their conduct is actuated solely by the fear of punishment, when capable of expressing this sentiment, and by their own desires.

"Among the lower orders of society are many imbeciles, a little more intelligent than these, and not considered as utterly devoid of understanding, who, nevertheless, have but vague and imperfect notions of social duties and of justice. They engage in occupations that require no great extent of intellect, and even in the simplest of the mechanic arts. If they do not pass among their acquaintances for imbeciles, they are at least regarded as singular beings, with feeble understandings, and are teased and tormented in innumerable ways. Many of them indulge in drinking, and become lazy, drunken, and dissipated. They steal adroitly, and hence are considered as very intelligent; they recommence their offences the moment they are released from confinement, and thus are believed to be obstinately perverse; they are violent and passionate, and the slightest motive is sufficient to plunge them into deeds of violence or murder."

Having lost the moral sentiments and the controlling power of the will, they are little better than animals, and more dangerous, because their powers are greater. It seems to be a law of our organisation, and worthy of attention in these cases, that wherever arrests of development take place, the faculties peculiarly human—reason and the moral sense—are the first to suffer, whilst the animal passions, and that cunning necessary for their manifestation, which some mistake for reason, frequently remain intact. Many of the cases spoken of in courts of law as cases of impulsive insanity, moral insanity, homicidal mania, and instinctive madness, belong to this group. Moral sense, reason, and the will, being defective, appetite, and the passion of the moment, become the ruling powers over the individual.

Having thus at considerable length discussed the legal doctrine of responsibility in relation to unsoundness of mind, it only remains for me very briefly to attempt an answer to the question before the Department: "How should the law deal with questions of mental competency in civil and criminal cases respectively?"

First then as regards criminal cases:—The theory of the law in reference to responsibility should be brought more into unison with the teachings of experience; for if it be a fact that in the insane knowledge is not equivalent to power, or freedom of action, juries ought no longer to be told that it is. The letter of the law ought to be in harmony with the principles of justice, which it cannot be so

long as any of its rules are contrary to facts; the law cannot ignore facts, however repugnant to popular prejudice they may be. So long as the dogma of the law as to what constitutes responsibility is retained in its present form, so long will witnesses continue to be examined on a false basis, and as a consequence, frequent absurdity, if not injustice, result.

If for healthy action it be necessary that the mind should be sound in all its parts, if delusions are an indication of diseased mind, then it is dangerous,—and as a matter of experience frequently most unjust—to say, that the existence of a delusion can be held as an excuse for crime no further than the terms of the delusion would have been held as an excuse had they been true. Delusions are ever an indication of a mind shaken to its foundation ; no one familiar with their influence on the insane would undertake to measure the extent of extravagance to which they might lead ; acts apparently but little connected with the particular false impression, and generally far beyond the influence which ought to belong to it if true, frequently result from the influence of delusions.

The mind of man is a unity possessed of various qualities or attributes, these qualities or attributes being manifested through the brain, and being dependent on its integrity for their normal development. The particular part or function impaired may give prominence as it were to the insanity, but the whole suffers to a greater or less extent with the part ; herein lies the danger of attempting too nicely to estimate the influence of morbid conditions on the conduct of the individual ; the harmonious action of the various faculties of the mind is disturbed, the balance of power is lost, the directing force of the will is impaired, and the sufferer becomes the victim of every caprice of fancy, or of every gust of passion.

The law ought not to attempt to despise the conclusions arrived at by men of experience and observation. In determining questions of responsibility it cannot aim at certainty, for no power but that of Him who made the mind, can weigh with accuracy all the varied influences which disturb its freedom ; it ought therefore to listen with respect to the knowledge of the age, and take counsel therefrom; that all men may feel if error arise, as arise it must, it is the error of human fallibility, and not wilful blindness.

" Insanity is a disease, and as is the case with all other diseases, the fact of its existence is never established by a single diagnostic symptom, but by the whole body of symptoms, no particular one of which is present in every case. To distinguish the manifestations of health from those of disease requires the exercise of learning and judgment ; if no one doubts this proposition, when stated in reference to the bowels, the lungs, or the heart, what sufficient or even plausible reason is there, why it should be doubted when predicated of the brain ? No reasonable person would desire to set up an insuperable barrier between the domain of professional knowledge, and that of common sense and common information ; but it is not too much to insist, that facts, established by men of undoubted competence and

good faith, should be rejected for better reasons than the charge of 'groundless theory.' "*

The mode in which the testimony of experts is obtained in these cases is, I venture to say, most unsafe, and prejudicial to the interests of justice and truth. I think all evidence of this kind should, in the first instance, be tendered as advice to the court, subject to cross-examination by either side, both as to facts and the conclusions drawn from them. Under the present system I have no hesitation in saying that it depends more on the skill of the witness, and his power to baffle the dexterity of counsel, than upon the justice of the case, whether an acquittal shall be the result or not; an adroit witness who will adapt his language to the dogma of the law, and who will refuse to answer in detail, thereby defeating the desire of counsel to fritter his testimony away, will secure an acquittal upon far weaker grounds than a more able man may do who is less skilled in the method of evidence. This is not what it ought to be; the aim of the law is the attainment of truth and justice, so far as human wisdom can accomplish it; these ought not to suffer by the inability of a witness to cope with the skill of counsel—rigid cross-examination invariably ends in the establishment of the truth or falsehood of evidence, as regards simple facts, in matters of opinion it too frequently defeats the ends of justice.

In civil cases the same principle of investigation ought to be adopted. The evidence of experts as to the sanity or otherwise of any party to a suit, should be taken as advice to the court, and not, as under the present system, it too frequently is, simply the opinion of the partisans of either side; the court striving to strike a balance between the two, and frequently rejecting both. Conflicts on matters of experience and opinion in courts of law, are dangerous to the reputation of science, and inimical to every principle of justice. Juries as a rule, from their want of knowledge of such subjects, are unable to distinguish between that which is sound, and that which is worthless, as a consequence their verdicts are irregular and uncertain, and justice suffers. The whole subject of insanity, both in civil and criminal cases, needs revision, and with revision must disappear many of the axioms which have hitherto guided judges.

I have discharged my task; I have endeavoured to show that the opinions of the law on the subject are not founded on fact, that, as a consequence, justice becomes uncertain and halting in its course, and that some amendment is urgently required if we wish to maintain the majesty of the law as a terror to evil-doers, and the protector of the innocent.

I have intruded myself on the Department in no spirit of cavil, but from a grave sense of the importance of the subject, and the need there is for inquiry; as such I commend it to your consideration.

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* Ray's "Medical Jurisprudence of Insanity."

PROCEDURE.

The Business Arrangements of the Superior Courts of Law. *By* JAMES WALTER SMITH, LL.D.

A GREAT waste of time and money takes place under the present system of transacting our legal business, civil and criminal. I propose to consider how this waste may be avoided by a different arrangement of the times and places at which justice is administered by the judges of the three superior courts. We constantly hear of suitors being overburdened with delay and expense; we also hear of judges being overworked. It is true that both these evils do exist; the former to a very shameful extent, the latter to an extent which, being tolerable to the afflicted individuals, is less terrible to the public. But both these evils may be remedied, and the remedy for the one is the remedy for the other.

What are the sources of the delay and expense which the public suffer? At what times and in what shape do they present themselves? They appear (1) before the cause is set down, (2) after it is set down and before the trial, and (3) when the trial is over and either an application has to be made to the full court, or the parties have to go before an arbitrator, the verdict having been taken subject to a reference.

I will pass over the delay and annoyance which are occasioned by the proceedings previous to the issue, because, though I am clearly of opinion that the issue to be tried could be much better ascertained by an appearance before a judge than by the present dilatory and expensive system of special pleading, yet this is not one of those evils which would be directly remedied by the method which I am about to propose. My remarks will therefore be confined to the unnecessary burdens imposed upon the suitor upon the occasion of the trial and after the trial is over.

The pleadings having arrived at an issue, the cause is entered for trial. Briefs are then delivered and witnesses subpœnaed. Each day during the sittings a list is published containing the causes which, if time allows, are meant to be tried that day. It is from the day on which a cause appears on this list that the counsel, attorneys, and witnesses are obliged to be in attendance on peril of losing their cause. But the causes which take precedence of the cause in question may be of any amount of importance, and may consume any length of time; the presiding judge may have to rise every day at two o'clock to go to chambers; and thus many days may elapse before the cause in question is reached. And very often the sittings terminate before it is reached at all, and our plaintiff and defendant find their case made a *remanet*, in which case it has to wait for another sittings, and serves to impede the decision of a new set of causes which have since been entered for trial. In the meantime, the witnesses who live at a distance must either go home or be

kept at the place of trial; in either case entailing great expense, all eventually to be paid by the loser.

In the judicial statistics presented to Parliament, no average has been taken of the number of days during which each cause has to wait; but those conversant with the matter will admit that, if we had to guess at an average, in town and country, a week is by no means an extraordinary time to fix upon. But, whatever the time may be in each case, the attorneys and witnesses on each side are obliged to be in attendance during the whole of it. The expense of bringing the witnesses to the place of trial depends, apart from distance, on their number and quality, and the expense of keeping them there depends on the same circumstances, and has been said to stretch from £10 to £100 a day. I am speaking now of ordinary cases, and am putting out of the question such occasional phenomena as the paraffin oil case, in which, at the rate of £2,000 a day, the annual income of a small principality was soon wasted. But, whatever be the amount in any given case, it is a monstrous injustice that it should often extend over seven, or, as sometimes happens, fourteen days. For the purpose of giving testimony, *i.e.*, after the the cause is called on, a witness has seldom to wait over a day. The average duration of a cause—I speak from the judicial statistics of 1856 in which the figures leading to it are given—is a little over a quarter of a day. The only reason why the expense is seven times what it need be is that neither the court nor the parties know when the cause can be tried.

I need scarcely point out that the expense of witnesses has no necessary relation to the amount in dispute. I may sue for a large sum of money and may prove my claim to it by the evidence of a clerk from my office, by letters and papers. I may sue for a large estate and may make good my title by the evidence of a member of my family. On the other hand, a poor man who seeks compensation for an injury received from the fall of a building may have to pay four guineas a day to two or three gentlemen to prove the immediate cause of the accident, and a like sum to the medical man who proves the extent of the injury, besides what he has to pay to the witnesses whose testimony fixes the defendants with liability. And not only does this burthen in no way correspond with the amount in dispute or the value of the cause, but it is of no benefit whatever to the lawyers; although the lawyers are, naturally enough, blamed for its existence. Nor is this burden of any advantage to anyone else: for a witness, however paid, is always dissatisfied.

If, after an expenditure of £100 a day for a week, the cause should be made a *remanet* to the next sittings or assizes, there is no reason why a similar amount should not be expended at these sittings or assizes before a verdict is given. If, however, as often happens now, no verdict is given, but the cause is referred to arbitration, the same expense, together with additional counsel's fees, may be incurred for the third time. The same thing may take place whenever, after the lapse of a term or two, a new trial is had

by order of the full court. And thus, when we consider that the same expense may be, and often is, incurred on both sides, and that very often the losing side has to pay, we shall find that the exorbitant expenses of the attendances may be borne by one of the parties as often as six times.

Having brought to view these evils of delay and expense, at and by reason of the trial, the mischiefs which may succeed the trial—mischiefs consisting chiefly of vexation and delay, though by no means unattended with expense—may be very shortly stated. If the cause is referred, there is often a long time to wait before an appointment can be made by the arbitrator; and, when it is made, the delay and expense begin over again. If a verdict is given, and not subject to a reference, and a motion is to be made by either side to the full court for a new trial or otherwise, a very long time, in some cases five months, may elapse before that motion can be made, and very often a much longer time before it is disposed of. And the decision, when arrived at, often opens up a prospect of further litigation.

Having now spoken of the evils inflicted on the public, let us look at the arrangements made by the judges, in order to see the connection between them. I say made by the judges, because they are the masters of their courts and the ostensible directors of their proceedings. Now, if a private person engaged in business were to have one month for answering his letters, another for buying goods, another for making payments, and a fourth for taking receipts; and were to refuse to do any one of those things in the month fixed for any of the others of them, he would be doing his business just as the courts do theirs.

In every year there are only four periods of three weeks each, during which an application can be made to a full court, and an interval of five months elapses between a certain two of these periods. During the short times when there is a full court at all, there are three such courts, which is more than is wanted. When these periods end there is no full court, which is much less than is wanted. Now, an application to a full court being a thing which may happen to be necessary for the obtainment of justice, either as a step in a cause or independently of any cause, and there being no time of the year at which it may not occur to a man to need such an application, the absence of a full court during a single week in the year works an injustice. An illustration of this was furnished by the "Road murder" case.

In trying cases, whether in town or country, the same plan is pursued. Certain short periods are set apart for this purpose, and at other times no causes can be tried. During the intervals between these periods, causes accumulate in each court, and hence the long lists and proportionally long times during which each cause has to wait.

During the period set apart for the trying of causes in town, if they do not fall within the times when a full court is sitting, it is

no uncommon thing to find six judges (two for each court), sitting at the same time, in the same building, each in a separate room, all engaged in trying causes, and very likely urging them on with what appears to the parties an undue haste, in order to get through the lists before the assizes.

Then come the periodical journeyings into the country, in which —as in the work *in banco* and the sittings for London and Middlesex —nearly the whole judicial staff are engaged in the same business at the same time. And here, at each town to which they come, they find waiting for them the accumulations of an average of six months, and then they have again—at least at many towns—the crowded lists and long delays experienced by suitors whose causes are not at the head of the list.

As regards business at chambers the same practice is followed. During the greater part of the year, instead of one judge attending during the whole day, there are three judges, each of whom attends for one-third of a day. In the afternoon they rise from a half-heard argument before the full court or a half-tried cause at *nisi prius* and spend two or three hours at chambers. In leaving the full court the judge is always taking away from its efficiency and is often depriving the parties of the judgment of a person peculiarly acquainted with the matter in hand. In leaving the *nisi prius* court in the middle of a cause they are doing a great injustice to several classes of persons, more particularly to the parties in the half-heard case, one or both of whom may be thereby compelled to incur any amount of additional expense in the additional day. At chambers again the judge's arrival is uncertain, and so is that of his departure. This makes the attendance at chambers on the part of a lawyer or his clerk an anxious, irksome, unremunerative business. Unremunerative in a direct sense though of course the client has to pay for it in one way or another. Because these duties are irksome, there is a tendency to hand them over to a clerk, not always to a very superior or intelligent clerk, and yet these are the very duties which should be performed by the best man in the office. They are the duties of an advocate. There is also a tendency to consent to anything, though by no means beneficial to the client, rather than incur an attendance at judge's chambers, and thus, indirectly, the client suffers or has to pay. A professional man whose presence in his office means money to him will not have his day wasted at chambers for nothing ; so in both these ways as well as in others, the client pays for the badness of the system on which his business is done.

This system shows all the disadvantages of conjoint labour with none of the advantages of divided labour. There is a tendency towards all the judges being engaged in the same thing at the same time, as though there were not something else waiting to be done all the while. And even this plan cannot be completely carried out, for the full court has to lose a member, and the *nisi prius* court to lose its sole judge, on account of the exigencies of chamber business.

All things are therefore done in a hurry; and things done in a hurry are never done well. Counsel are always ready to assist the bench in this press of work. Fees being once received there is little motive for these gentlemen to spend the proper time over their business; and a reference to arbitration, or a settlement which satisfies no one, is only too welcome.

Now, consider the plan which would solve all these difficulties—the plan which would enable the court to avoid the indirect oppression of which they are now guilty, and which would give the judges a holiday for at least half the year.

I have hitherto spoken of the three courts as though they were virtually one, as indeed they are, having nearly the same objects and the same jurisdiction. Why should they be hampered by being divided in anything but in name? As regards the work at chambers they are virtually one during the long vacation and the spring circuit, when all the courts are represented by one judge; and the same statute (11 Geo. IV.) which gives one judge the power of representing the three courts at chambers during the long vacation, gives him also the power of so representing them during the other busier times of the year. No new legislation, therefore, is wanted to enable one judge to attend at chambers for a whole day instead of three judges, one for each court, for a third of a day each; a plan which, as I have above pointed out, would prevent a judge having to leave the court in the middle of an argument or a trial, and might be made to prevent the crowding, waiting, delay, and hurry, of which, except in vacation, judges' chambers are the daily scene. This improvement would be hailed with joy by the lawyers, and would be more beneficial to the suitors than the public imagine. So much for what can be done without further legislation.

But suppose a statute were made applying in a similar manner to the proceedings of the full courts and to the trial of causes in London and Westminster? The three courts would then in effect be able to convert their judges into members of one large court.

Imagine, then, the courts and judges to have these powers, and then look at the work on which they would have to bring them to bear. The number of causes annually tried in the superior courts is about 2,150, of which about 1,000 are tried on circuit and about 1,150 in London. By that I mean London and Westminster. From the returns for 1856, which give the number of days on which the judges sat, together with the days on which there was a second judge, we ascertain that those causes which were tried in London were tried at the rate of nearly four a day, while those which were tried in the country were only got through at the rate of about one and three-quarters a-day. (I am here reckoning as if one judge were engaged upon causes from the beginning to the end of the circuit.) The difference is to be chiefly ascribed to the work being continuous in the one case and intermittent in the other.

Now many will probably be surprised to learn what is simply the result of these figures, viz., that, if all these causes were brought

together in one place, they would not find work for two judges throughout the year. I do not, however, propose such a step. As regards the country causes it would be uneconomical and unjust; though not so much so as the present system. What I would suggest is that one judge should be engaged day by day in trying the 1,150 London causes, which, according to the average just now given, would last him exactly a year at the rate of three causes and two-thirds a day. The judge could be changed as often as necessary, but one should always be at work. Causes would thus be tried soon after they were set down, and suitors would seldom have to wait longer than a day, and neither the court nor the suitors would often have to complain of the absence of the counsel engaged; an evil inseparable from the present mode of doing business, in which several judges are sitting at one time in different rooms in the same building.

As regards the criminal business which is now done at the Old Bailey, I need not quote figures to show that a judge sitting about one day a week throughout the year could easily go through all that now falls to the lot of the judges of the superior courts.

Next, as regards the business done on circuit, which is partly civil and partly criminal. The number of causes tried at the assizes during the year are, as was said before, 1,000; and the number of prisoners in 1861, were 3,623; a considerable increase over the preceding years. Taking these figures, however, we have eleven causes and forty-three prisoners per month to each circuit; and, if this business could be done every month by one judge, he would only be occupied about twelve days. The causes, according to the statistics, would occupy three days, and, judging by one's general experience, the forty-three prisoners, of whom a good many would be tried together, would occupy eight days. Add a day for travelling, and each month's work in the country would be done by one judge on an average in twelve days.

Having spoken of the trial of civil and criminal causes, whether in London or the country, and of the business at chambers, it only remains to mention the full court. The three courts now sit at the same time for four periods of three weeks each, unequally distributed over the year. Each sits for 84 days. The three together for 252 days, or 36 weeks, not quite five days a week throughout the year. There are also usually sittings of no great length after term. But, considering how often it happens in term that the courts have to rise before the end of the day for lack of work, there is no doubt but that their work could be done by one court composed of four judges, who should sit about five days in the week throughout the year.

Under this plan, then, we have the fifteen judges distributed as follows:—There would only be work every day for two, one sitting to try causes, and one sitting at chambers; and during five days in the week there would be work for four sitting in the full court. The other nine would be employed as follows:—One would sit for

one day a week at the Central Criminal Court, seven would sit for six days a week for two weeks at one or two towns in the several circuit districts, and one would be entirely at leisure.

By this arrangement each would be at leisure for more than half the year, as the following table * will show :—

	No. of Judges Engaged.	Days in each Week.	No. of Weeks Engaged.	Days for each Judge.	Total Days.
Full Court	4	5	52	260	1,040
Chambers	1	6	52	312	312
Nisi Prius in London .	1	6	52	312	312
Central Criminal Court	1	1	52	52	52
Circuits	7	6	24	144	1,008
At Leisure	1	0	0	0	0
Total Number of Judges' Days' Work .					2,724

2,724 ÷ 15 judges = 181⅘, not quite ½ a year.

I have taken pains to give these figures, because, whenever a complaint is made that the public is ill-served by the courts, it is so often accompanied by a cry for the appointment of more judges.

There are weighty objections to any such increase, apart from its being unnecessary. Not merely would it be undesirable to add to the £700,000 now annually spent in judicial salaries and pensions, but there would be reason to fear that a large number of men capable of preserving the present character of the law could not be easily supplied, even from a body so abounding with talent as the English Bar.

And here I must advert to an objection which I may look forward to as likely to be made to the system which I propose, and which, in fact, has been made to it when put forward elsewhere. It may be said that the system which I advocate would deprive the lawyer

* I have not reckoned for the attendances in the Exchequer Chamber, the Court for the consideration of Crown Cases reserved, and the House of Lords. These attendances, however, are not very lengthy or frequent; and, *per contra*, I have reckoned as if four judges always sat in the full court, though, in fact, three is the more common number, thus making an addition of 260 days, which is more than would be occupied by the attendances above mentioned.

of his long vacation. Now, even if this were strictly true, I believe that lawyers would continue to exist, and would be just as good lawyers though they had no long vacation; and, if that be so, the benefit to the public would decide the question.

But a little examination will show that this is an objection of words only. It is true there would not be a fixed and compulsory long vacation for every one. There would be no period of three months' duration in which no lawyer could assist a litigant, however much both parties might desire it. Suits, being by nature things capable of arising at any time, and recourse to the courts being a thing likely to be necessary at any time, there would be no time at which such suits and such recourse could not be had. There would be no time at which lawyers, both on and off the bench, would stand idle. But is it desirable that there should be such a time? Peter having converted to his own use Paul's waggon and horses, does the fact of the offence having been committed between hay-time and harvest, furnish any reason why the injured party should have his remedy postponed? Again. Does it follow, because the courts would be always at work, that every individual practitioner should always be at work? It is not so in other professions; why should it be so with the lawyers? As regards the judges, it has been shown that it would not be so. And what reason is there why the barrister and the attorney should not take their holidays on the same terms and subject to the same losses and risks as the physician, the journalist, and the artisan? These people do not find it necessary to be all climbing mountains together. To the profession in general the proposed system would in fact be beneficial as conducing to the wider distribution of the business, which, under the present system, is monopolised by those who have acquired a prominent position.

To return, then, to the principal matter in hand. In our police courts we hear of no delay, vexation, or expense, and yet it would be easy, by following the example of the superior courts, to give rise to these evils. The reason why no one is dissatisfied with these courts is that they sit day by day. In the county courts again we find no such complaints; and why? Because justice is administered there at short intervals, and no cause has longer than a month to wait, and the precise day of hearing is always notified to the parties. Why should the superior courts yield to the inferior in those qualities of cheapness and dispatch which so much enhance the value of justice?

In conclusion, let me remind the Department that, though the evils which I have pointed out are more severely felt by the public than by the lawyers, yet it is the lawyer only who can trace them to their source and supply a remedy for them. And to do this, I cannot help regarding as one of the most urgent duties which the lawyer owes to the public, and one which the public expects to be performed by the lawyers and by gentlemen such as those who form a large portion of this Association.

CRIMINAL LAW.

The Deterrent Influence of Capital Punishment. By THOMAS BEGGS, F.S.S., *Honorary Secretary to the Society for the Abolition of Capital Punishment.*

WHATEVER may be the general opinion as to the expediency of retaining upon the statute book the punishment of death, there will be no question as to the importance of the inquiry upon which the Commission appointed by Her Majesty during the last session of Parliament is about to enter. Those who have read the calendar of crime for the last ten years will, I think, arrive at the conclusion, that if the extreme penalty be retained, there must be some alteration as to the mode and manner of its administration. It is confessedly defeating its purpose. A painful feeling pervades the community that the law is not carried out with firmness, while among the humbler classes, an opinion has obtained that exceptions are made in favour of the richer at the expense of the poorer criminals. I need scarcely say, that the efficiency of the law depends almost entirely upon the public confidence in the law itself, and upon the integrity of its administrators. Without that confidence, it becomes not so much a terror to evil doers, as an object of distrust and suspicion to those who desire to do well. Some cases, to which I shall have more particularly to allude, have tended to nurture the uneasiness which has been growing for many years past. Sometimes there is much difficulty in securing the conviction on a trial for murder, while in other cases, it becomes almost impossible to execute the sentence; and in some instances of imputed or supposed insanity, an unfortunate collision has taken place between the highest legal and medical authorities. Under these circumstances the law is deprived of much of its dignity and power, while an impunity is offered to crime, by diminishing the chances of conviction, and increasing the chances of escape after a conviction has been secured. It is necessary to look these things fairly in the face, with the view of effecting such changes as will bring public opinion into greater harmony with the law. It is important, moreover, to inquire whether the difficulties are not inherent in the law itself, and whether they do not arise from the nature of the punishment it provides. I believe that this is the conclusion to which a fair investigation will lead. If, however, a contrary conclusion be arrived at, then we must reconcile ourselves to a sad necessity, and try to remove the anomalies which attend the execution of the law. It is clear that we must renounce the punishment of death altogether, or enforce it with a stronger and a firmer hand.

I believe the labours of the Commission will lead to valuable results, in directing public attention to the proper points of inquiry; by collecting and systematising much evidence that lies scattered abroad, and by condensing into one report the opinions of the most eminent jurists in all parts of the world. With a humble

hope that I may in some way be able to assist the inquiry I have ventured to bring the subject before this Association.

In doing this it is very satisfactory to find that the ground of debate has been much narrowed of late years. It would be idle now to reply to those who were wont to taunt the advocates of the abolition of capital punishment with a maudlin sentimentalism. A single sentence will suffice to say that our respect for human life is as great, and our sympathy with the murderer just as little, as that of the stoutest advocate of death punishment. There are many grounds upon which the demand for abolition is preferred, but I may frankly say that my objection to capital punishment is not founded upon the abstract sacredness of life. I concede at once the perfect right of a community to take the life of the murderer, if by that means the lives of its citizens are rendered more secure.

I object to a spirit of retaliation or vengeance being made an element in any kind of punishment, but would place in the hands of the civil magistrate, the most ample and extreme powers of punishment where the safety of human life is concerned. This I apprehend ought to be the highest object of legislation. If capital punishment does not secure this end, then its retention is a mistake and a cruelty.

Much need not be said on the demoralisation attendant upon public executions. The suggestion made in so many quarters that criminals should be executed in private, is a confession that the scaffold has entirely failed as an example, and that the spectacle is injurious to the crowds who witness it. One word as to private executions. The open profligacy would be prevented, but what I regard as the greater mischief would remain. The moment any circumstance of horror is surrounded by a shade of mystery, that morbid curiosity which prevails in a greater or less degree among all classes of men, is increased and intensified. One of the strongest evidences of a deplorably low taste among the people, is the avidity with which the papers are bought up which contain the account of any particular atrocity, and those which give the most minute details command the largest sales. This unfortunate excitement will always exist as to the crime and the criminal, but I fear that it would be much greater as to his final end, if an air of privacy or secresy was thrown over it. The accounts which are given in the newspapers of the conduct of the condemned up to the time of execution, circulate over every part of the kingdom, and by covering a larger ground do much more mischief than that which takes place at the foot of the gallows. If executions were carried out in private, there would be quite as much excitement among the readers of these accounts, whilst the privacy would encourage all kinds of suspicions and conjectures. In some cases there would be a suspicion that the execution had not been carried out. It was, I remember, gravely asserted in a newspaper some years ago that Fauntleroy had not been executed, and this most improbable statement was credited by many. If such a suspicion could be entertained in a case where many thousands had witnessed the

execution, among whom there must have been some who knew the person of the condemned, what would be said in other cases, of criminals less known, and where circumstances might seem to favour the notion that those in authority would willingly connive at the escape. It is little to the purpose to show that such notions are unreasonable. In times of excitement the most preposterous surmises and the most monstrous statements receive popular credit.

At the first assizes held in the city of Manchester the grand jury represented to Mr. Baron Pigott their belief of the evil effects of capital punishment publicly carried out in the streets of Manchester, and they urged the propriety of executing capital sentences within the walls of the prison. The *Times* newspaper of August 2, 1864, gives the report of the presentment, and in a well-reasoned article says, "There are obvious reasons against anything like secrecy in the carrying out of capital punishment, of which the grand jurors seem themselves conscious. They talk of making proper regulations and securities for the due fulfilment of capital sentences, but it must be remembered that these precautions must be framed so as to satisfy the most ignorant, and therefore the most suspicious, classes of the people. The absence of publicity is almost necessarily attended by an absence of certainty, and on the rare occasions when a man of superior education is condemned to death, painful questions would arise as to the reality of the sentence passed upon him." The *Times*, however, suggests the propriety of reverting to the old practice of executing criminals at a distance from the seats of population—in what the writer terms "solitary places"—particularly where peculiar circumstances of atrocity have marked the crime, or where there has been a special interest attending the criminal. I think it will be found that the evils complained of in public executions have not increased, but on the contrary, since they were removed from Tyburn to Newgate—and we have now to look at the greatly increased facilities for masses of people passing from one locality to another. I fear that such an attempt would extend the evils against which it seeks to guard over a larger area of district, and over a greater number of spectators.

I come now to a much graver consideration—the impunity which the law as at present administered offers to the worst class of criminals. In cases of infanticide, even in the very worst cases, no execution has taken place for many years—and therefore it is only a matter of common sense, to make the law in accordance with the practice. As to the other classes of murder, it appears by the judicial statistics that the chances of conviction in cases of committal for murder are as one to three, while in all other offences the chances are as three to four. I append a table which is simply a digest of the judicial statistics. It will be conceded at once that the crime of murder is more difficult of proof than other offences, as the murderer tries to destroy the evidence of his guilt. There is generally no witness, and there is necessarily greater scrupulousness in coroners' juries and the juries of criminal courts. Making the most

of all these deductions, the proportions when fairly considered are very striking. This gives an additional chance and temptation to the man contemplating the worst of crimes and is exceedingly dangerous to society. It has now become an axiom among jurists that the efficacy of punishment does not depend upon its severity but upon its certainty. The principle is fully borne out, if we look at the statistics of these offences for which capital punishment has been repealed within the present century. The punishment in all these cases was abolished in face of the most solemn remonstrances from persons high in authority—but abolition in each case was forced upon the legislature by the impossibility of securing convictions. The injured parties would not prosecute, juries would not convict, and even the judges would suggest suppressions or distortions of evidence to evade a sentence involving death. The law became almost a dead letter, and the chances of escape were so numerous, that the fear of punishment had little weight with men who were tempted to commit crime and defeat the claims of justice. When it was felony punishable by death to steal from the person to the value of 40*s*., pockets were picked at the very foot of the gallows.

These things were, in fact, only in anticipation of what is now taking place in relation to the only crime for which the capital penalty is retained. It is difficult to secure convictions, and in France, where the law admits of a verdict with extenuating circumstances, it is a matter of common complaint that such a qualification is often appended in contradiction to the clearest evidence. These verdicts, however, are a practical protest against capital punishment. Many cases will occur to those who listen to me, where verdicts have been given in this country which have been opposed to the obvious justice of the case. It does not lie with the juries alone; but after sentence, the Home Secretary finds it sometimes impossible to carry out the law. There cannot be the slightest blame attached to the present Home Secretary, whose conscientiousness and humanity in the discharge of his duties do not admit of question. The fault is in the law. Several recent cases have given rise to a painful feeling on many grounds. There was the case of Jessie Maclachlan. I happened to be in Glasgow at the time the movement was making in arrest of judgment. I conversed with many gentlemen who exerted themselves in her behalf, but I did not find one who had a conviction of the woman's innocence—they simply argued that there was a possibility of it—and that possibility stimulated them to save her life. The efforts of men disinterestedly labouring in a work of humanity will always command respect, however mistaken may be the direction it takes, or however unfortunate the end. A popular feeling had been created which was utterly incapable of attention to calm reasoning, and perhaps the public mind, at any time, is unfitted for the task of sifting and weighing evidence. Without any wish to undervalue public opinion, or to check its expression, I think that the less it interferes with the decisions of our criminal courts the better. There may be much in the pro-

cedure of our courts requiring alteration and reform, but they stand unrivalled before the world for the care and labour bestowed upon the cases brought before them, and for the integrity of their awards. It cannot serve the cause of justice or humanity that an agitation out of doors should reverse the decision of a judge or jury. In this case, the movement which saved the woman's life was one of feeling not of reason, dictated by the heart not the head. Had the punishment been anything short of death, I am satisfied there would have been no voice lifted in her behalf.

I will take the case of Townley. The whole of the circumstances were most embarrassing. The sentence of the court was altered by a weight of medical testimony, much to the dissatisfaction of a large section of the public. Then followed the case of Wright. Great efforts were made to save this man's life, but all appeals were made in vain. The feeling in the neighbourhood of Lambeth—the scene of the murder—and where both the unfortunate man and woman were known, was of intense excitement. On the morning of the execution the dreadful preparations were accompanied by loud shouts of "shame" and "Townley." The expressions of sympathy with Wright were most emphatic. Among the working classes the feeling prevails to this hour that a great injustice was done in this case, and that Townley was reprieved because he belonged to a higher class in the community, and that Wright was made an example because he was a poor man. The feeling was by no means confined to Lambeth, for at the execution of a man at Nottingham for the murder of his mother, the populace called out "Townley," a very emphatic expression of public dissatisfaction at the respite in one case and the execution in the other.

The cases of Townley and Wright were followed by that of Hall, for the murder of his wife at Birmingham. This man was reprieved, but on what ground? The Home Secretary at the last hour yielded to the importunities of the people of Birmingham; but he stated that the conviction which in the first case had dictated his refusal to advise a respite remained unaltered, and that he yielded to the opinions of a large section of the people of Birmingham, who not otherwise favourable to the abolition of death punishment, had pleaded for mercy in this case. This will show, I think, that the Home Secretary ought to be relieved of a duty which requires more than human firmness to carry out, and where it is seen that he is compelled in opposition to the decision of the court and his own convictions, to yield to the pressure from without. I believe there were none of the working men who exerted themselves in the case of Wright but rejoiced at the escape of Hall, but it added to the bitterness with which they regarded the execution of Wright. In the case of Wright, the woman murdered by him was well known to be of dissipated and desperate character, and the evidence to support the plea that the murder was deliberate and of malice aforethought, was by no means conclusive. In the case of Hall, whatever might be the nature and extent of the provocation, there was no doubt that

the murder was deliberate, and planned hours before its execution. For Townley there could be no plea but that which ultimately prevailed—that of insanity. It will be long before the recollection of these cases, that of Townley, Wright, and Hall, will be worn from the minds of the humbler classes.

But the grievous point is this—the large amount of sympathy which in some cases is drawn around the criminal, almost to a forgetfulness of the crime. All these men had committed great crimes, crimes which admit of no excuse or palliation, and it is essential for the public safety that a due horror of the crime should be inculcated. But what are the effects? In Wright's case it was the remark of many who observed the efforts made in his behalf, that the fate of the murdered woman, and the sinfulness of the act which sent her to her account, with all her sins upon her head, was entirely overwhelmed by the sympathy for him. In the case of Hall there was even a worse result. I have it from a friend, upon whose judgment and means of acquiring information I can implicitly rely, that the fame and character of the murdered woman were blackened by reports which had only feeble foundation, and that facts in relation to her were distorted and exaggerated to substantiate a case in his favour. This would be done unconsciously by those engaged in a work of mercy, but we know how little reliance can be placed upon statements which are current in periods of popular excitement. The shadow of the gallows frightens men from those serious contemplations which ought to occupy the mind in the presence of a great crime.

The punishment of death confounds all gradations of guilt. In cases of horrible and peculiar atrocity the public mind is absorbed by a spirit of vengeance. In cases where there are extenuating circumstances a sympathy for the criminal prevails. In one class of cases the horror of the crime may close the mind to a proper consideration of that evidence which is in favour of the accused, and in the other case a sympathy with the guilty favours their escape. It is most undesirable that men with insane tendencies or ferocious passions should have any chance of going back into society through either a mistaken leniency on the part of the public, or of extreme severity in the law.

In the last debate in the House of Commons the defence of capital punishment was based almost exclusively upon its deterrent influence. This has always been used as a strong argument by Sir George Grey, and it is embraced as such by a large portion of the public. It is, however, one of those speculative arguments which does not admit of positive refutation. We can only examine it by the test of experience. To pursue it fully it would lead us into the field of psychological inquiry. I must content myself by indicating the several points involved in the consideration rather than discussing them. The postulate is this, that as the love of life is the most powerful instinct implanted in man by his Creator, therefore the prospect of a sudden and violent death, under circumstances

of public shame will be most likely to deter the man who is tempted to lift his hand against another. It would be absurd to assert that the punishment does not answer its purpose in some cases, by deterring men who under strong provocation or excitement are tempted to take life, but the question is whether the number of such cases, and the number is not ascertainable, is sufficient to compensate for all the acknowledged evils and difficulties attendant upon capital punishment. I am satisfied that the argument will lose strength the more steadily it is looked at. A general proposition of this kind is no sooner made than special exceptions at once start up, but these require to be examined just as carefully as the proposition itself, so that each may be placed at its proper value and at the proper side of the account.

As to the love of life, the instinct is all powerful, and we find men cling to life under the severest privations and the most extreme sufferings. It survives every loss. But yet we find men peril it for trifling aims, and for the promise of the most insignificant gains. Such is the mysterious link binding man to life, that death is rarely ever looked at from a distance. There are some to whom the dread of death is a daily terror, driving the mind to insanity, and in some cases to suicide, but these are rare exceptions. The mass of mankind live and act as if death was a distant evil, forming no part of the expectations of to-day. It is reserved for the consideration of to-morrow. The class of men who under the influence of strong passion or powerful temptation are brooding over a great crime are least likely to entertain such considerations. It is worth inquiry, whether in the category of great crimes, murder is not that one which is least likely to be prevented by the fear of death operating upon the man who contemplates its commission, and on the principle that the more desperate and violent the passions which hurry on the mind to any deed of crime the less likely are those passions to be arrested by prudential motives of any kind. The uncontrollable ferocity or deliberate wickedness which prompts the crime of murder are the least likely to be awed by a dread of the consequences, even if the consequences are ever thought of at all. To give potency to any deterrent influence it should be present in the hour of temptation.

So far as we are able to manipulate the cases of murder I submit that this view is borne out. In one class of crimes we find that the murderers have laid their plans with much care and circumspection, and with the expectation that detection was a very improbable if not impossible consequence. This was the case with Thurtell, Palmer, Rush, the Mannings, and many others. In other cases the murderer has acted with deliberation, but without making any effort at concealment or escape. Such was the case with Townley, with Hall, and the two men recently executed at Maidstone for the murders of unoffending children, and who had declared openly that they wished to be hanged. Other cases will at once occur to those who have watched the records of our criminal courts.

There is another view to which I must direct attention, as most important in this part of the inquiry, namely, the coincidence of the homicidal with the suicidal insanity. Great watchfulness is observed in all cases of committal on charges for murder to prevent suicide. Mr. Sampson in his work on criminal jurisprudence says, "Those who will take the trouble to refer to any considerable number of cases of murder will be struck by the remarkable fact, that the homicidal is almost invariably accompanied by the suicidal tendency, and hence, that persons who are in the state of mind which renders them capable of attempting the destruction of a fellow creature, are usually at the same time capable of self-destruction. In a proportion of at least two out of three cases this peculiarity is evidenced either by the circumstance that the individual has attempted suicide previously to the commission of the murder, that he has destroyed himself immediately afterwards, that he has given himself up to justice at once, expressing at the same time a desire to be hanged, or that by his previous conduct he has evinced the absence of any solicitude so to lay his plans as to enable him to escape from its consequences." Mr. Sampson in continuation refers to the number of murders committed in five years from 1831 to 1835. They amount to 31; of these there were no less than 21 cases where the desire for self-destruction was more or less manifested. Mr. Sampson gives a citation of these cases taken from the "Annual Register." In the "Manual of Psychological Medicine," by Drs. Bucknill and Tuke, this view is supported. On page 224 it is stated, "Suicide so often succeeds the homicidal act as to indicate a very close relationship between them, due allowance being made for the mere desire to escape punishment or disgrace. It has been calculated that in 60 per cent. of cases of murder, suicide is attempted." This is the concurrent testimony of all observers on the subject, and taking it as fully proved, then, I think, there will be a general agreement that minds labouring under an incipient malady of this kind are likely to be excited to acts of violence against themselves or others, by reading or hearing read the reports of suicides, murders, and executions. It is matter of common remark that a particular atrocity is followed almost invariably by similar acts, and this is partly due to the imitative faculties common to man, but more especially to the fact to which I have adverted, namely, that morbid affections and passions are aroused to unnatural activity, by the published accounts of deeds of violence and bloodshed.

How far, then, capital punishment is calculated to influence the class of minds afflicted by such insanity? How far the terrors of the law are likely to deter such minds from the act of murder? These are questions which really affect the issue. It is not much, if anything, to the purpose to say that criminals, under the sentence of death, almost invariably express a desire for life, and would accept the severest kind of secondary punishment instead. This desire, it must be observed, is expressed when the prison cell has closed upon the culprit, and when there is no door of escape but that which leads to

a shameful death. The paroxysm of passion is spent, the holy offices of the chaplain have called back all that is left of better feeling, and there is not only before the mind the doom of the hangman, but the doom beyond the grave. It does not affect the argument much that the wretched criminal, left to his own thoughts, with all the outer world excluded—and under such circumstances as I have named—should cling to life. The prospect of the penalty, to answer its purpose, ought to have been present in the hour of temptation, and to have saved him from the guilt. In his case it has not operated as a deterrent. The terror of the doom ought to be present when the hand is raised to strike—it is too late when the blow has been struck. Cases of suicide, again, supply some valuable facts much in point. In some cases, where the attempt has been arrested, or the victim restored after the attempt, the deed has been regarded with great horror, and the mind affected by deep contrition. It is said on very good authority, that those who have attempted suicide without succeeding, rarely make a second attempt unless labouring under decided and permanent insanity, and cases are known where suicide has been attempted by cutting the throat, and where, after the brain has been relieved by a flow of blood, a desire for life has supervened, and life might have been saved, had the bystanders known how to apply the pressure of the finger until a surgeon had arrived. The feelings, therefore, which come upon the mind after the commission of some desperate act, afford no data by which to judge of the feelings which were present during the commission of the act itself. They have often little or only feeble relationship with each other.

It will be generally admitted I think by those who have given attention to diseases of the mind, that the men who commit murder come generally either from a class who may be called dangerous lunatics, or those whose minds, unevenly balanced, are likely under sudden impulses or strong excitement to become insane. Dr. Laycock in an able paper on the case of the man Bryce, who has been recently executed in Scotland, says, "There is a notable increase in the number of insane murderers, and that is due not to the increase of lunacy, but to the fact that there is a greater number of dangerous lunatics at large, and these are so at large, because of the legal doctrine as to insanity and responsibility."

In the face of such evidence, evidence which is incontrovertible, is not the argument for the deterrent influence of capital punishment altogether a mistake? It is clear that it does not influence those who commit murder. Can it be shown, or is it reasonable to suppose, that it is potent in so many cases, as to compensate us for all the acknowledged evils of public executions, and more especially for the uncertainty attendant upon the committal, conviction, and execution of the criminal who has committed murder?

That uncertainty which supplies another motive to the mind brooding upon an act of revenge or cupidity, and which is capable of entering upon a calculation of the consequences, will I apprehend

continue so long as capital punishment continues. Men will shrink from becoming agents or ministers in carrying out a law which makes no distinction in the degrees of guilt, and which becomes capricious and difficult from its very severity.

The statesman who, in vindicating a penal code, suffers the question to be decided by his own consciousness rather than by studying mankind under all the varying stages of social and political progress, and as affected by climate, custom, and law, is greatly liable to err. In fact this is the fundamental error at the bottom of many of our schemes of reformation and improvement. Those who have to prescribe punishments for certain transgressions of the law are apt to look at that which would be terrible to their own minds, rather than that which is most likely to operate upon the fears and passions of those for whom the law is made, of those in fact who have inclinations towards evil. The class of minds who would be influenced by the fear of death punishment, are probably those who would not be capable of cherishing the idea of committing murder under the most powerful circumstances of trial or provocation. To a man treading the path of usefulness and honour, and surrounded by all the associations which give value to life, the bare glance at the scaffold with all its ghastly accompaniments, would be horrible in the extreme, and might overcome any strong temptation to an act of rapacity or vengeance. Such are the men who generally devise laws for states, but they have to legislate for men whose career is the very opposite of their own. Such men as I have named are not always the most competent to estimate the effects of law and punishment upon the ignorant, the depraved, the partially imbecile, or the insane. Men of calm thought and studious pursuits sitting in council chambers, in quiet deliberation upon the causes of crime and the means for its repression, are not always able to discriminate effect from cause, or properly calculate the value of the measures they adopt. Hence our mistakes in criminal jurisprudence. The question is not what will affect the mind under its usual and ordinary moods, but what will operate when disturbed by disappointment, by jealousy, by resentment? What will be most likely to influence the minds of those who with a proclivity to evil, are goaded by passion, tempted by avarice, or influenced by intemperance? I submit that it is a mistake to suppose that the punishment, or that any of the consequences, are thought about at all in the vast majority of cases, and that always supposing that the mind is capable of reasoning at all, the consciousness that detection and conviction for the offence would be speedy and all but inevitable, would be far more efficacious in restraining the hand raised to strike, than the most severe punishment. The legislator must, moreover, make proper allowance for the difference in character and disposition of the masses for whom he legislates. Men do not differ more in their physical than in their mental and moral constitution. There are some, and it is a large class in society, who are brought into the world with defective and unhealthy organisations, and who have been exposed to vicious

training, bad example, and early temptation, and who are susceptible of sudden impulses, and easily excited to acts of violence. There are some who seem deaf to the voice of conscience or of law. We have not as yet learnt to estimate the philosophy of the Divine law which visits the sins of the fathers upon the children, nor shall we be able to legislate wisely and well until its import is fully understood. There are many loose in society, who under proper regulations ought to be under supervision or restraint, many are condemned as criminals who ought to be treated as patients, and it is to be feared that many have suffered death, who were no more accountable for the crimes they had committed, than they would have been accountable for an attack of disease, the result of hereditary taint, or contracted by living in the abodes of fever or pestilence.

We have learnt by experience how vain and useless is the effort to extirpate crime, or even keep it in check by penal laws. During the present century we have seen that sanguinary punishments tend to augment the number of offenders, and feed the passions of the multitude. One by one the capital penalties have been repealed, until virtually only one remains, and that for murder. It can be shown that all these ameliorations of our criminal code have been attended with favourable results. Why, then, not follow in the same course, and abolish the punishment of death altogether ?

I ask for the abolition on the grounds that no sufficient reasons are given to render it even probable, that the supposed deterrent influence operates in a sufficient number of cases to justify the continuance of the penalty, with all its manifest and manifold disadvantages. I object to the punishment of death because it teaches to the people a lesson of vengeance, and this is inevitable when, in the language of the Roman writer, the punishment bears resemblance to the crime. I object to it also on the ground of its uncertainty—an uncertainty which I believe cannot be corrected by any refinement in the law, nor by any care exercised by those who administer it. It is not within the reach of human attainment that we can discriminate where responsibility ends, and where irresponsibility begins. And this difficulty will always beget doubts and scruples ; doubts and scruples which interfere with the process of law and defeat the ends of justice. I hold that the punishment of death does not answer its purpose, and that its doom is near. It is only a question of time.

APPENDIX.

Statistics of Murder in England and Wales.

[Extracted from the "Judicial Statistics" annually presented to Parliament.]

I. For the three years 1857, 1858, 1859 (quoted by Lord Hobart, in his Essay on "Capital Punishment").

MURDER.	Actual No. Committals.		Convictions.
Proportion of Committals to Convictions, 4 to 1	206	to	54
	Convictions.		Executions.
Proportion of Convictions to Executions, 5 to 3	54	to	33
	Committals.		Executions.
Proportion of Committals to Executions, 6 to 1	206	to	33
SAME PERIOD—FOR ALL OTHER CRIME.	Committed.		Convicted.
Proportion of Committals to Convictions, 4 to 3	54,798	to	41,029

II. For the four years 1860, 1861, 1862, 1863.

MURDER.	Actual Numbers.
Proportion of Committals to Convictions, 3 to 1	273 to 99
Proportion of Convictions to Executions, 3 to 2	90 to 63
Proportion of Committals to Executions, 4 to 1	273 to 63
SAME PERIOD—FOR ALL CRIME.	Actual Numbers.
Proportion of Committals to Convictions, 4 to 3	75,144 to 57,058

III. For the seven years 1857 to 1863, inclusive.

MURDER.	*i.e.* in Actual Numbers.
Proportion of Committals to Convictions, 3 to 1	479 to 153
Proportion of Convictions to Executions, 3 to 2	153 to 96
Proportion of Committals to Executions, 5 to 1	479 to 96
SAME PERIOD—ALL CRIMES.	*i.e.* Actual Numbers.
Proportion of Committals to Convictions, 4 to 3	129,942 to 98,078

A Plea Against Capital Punishment. By W. O. MARKHAM, M.D.

THE most unanswerable argument which can be adduced against capital punishment is (in my view of the matter) to be derived from the consideration of the degree of moral responsibility attaching to the criminal. This argument, unlike most other arguments affecting the question, is based upon a consideration of positive facts. Thus, it is positive that in the eye of Absolute Justice a different degree of responsibility, that is of criminality, attaches to different individuals, although each of them commit the same crime. But this difference human justice cannot estimate. The Omniscient alone can apportion to each criminal his exact measure of responsibility. Human justice, is therefore, a partial and a rough justice; and it is therefore, also, partially blind in the application of its punishments; and so from the very nature of the case necessarily unjust in the apportioning of punishment to crime. Now the extremest punishment which man can inflict is that of death, an irrevocable doom; and as he never can be sure that the punishment, as applied to the individual, is a just one, he is not justified in inflicting it. He is bound for the sake of society and justified in protecting himself against the future possible violence of the criminal; but he is not justified in going beyond this; and for the following reasons:

No living mortal can enter into the mind of a criminal and calculate all the influences which may have operated upon him both from within (*i.e.* from his own faulty organisation) and from without, and have impelled him to crime. But we all know and admit that such imperious influences do guide and impel the hand of the criminal to the commission of crime.

As regards external influences, let it be remembered that criminals, as a rule, are born into and come out of the ignorant, the brutal, and the suffering classes of society. Thus, for example, in the heart of our Christian civilisation, children are brought up in ignorance, vice, and brutality, and are by the very fact of their position condemned to a career of crime and infamy, *i.e.*, are condemned to punishment. We know just as certainly as we know the sun will rise on the morrow, that of so many children bred up in certain districts where vice and misery prevail, a given percentage will assuredly become criminals, *i.e.*, subject themselves to legal penalties. Before even the children are born, we know that such will be the case.

From this fact it is manifest that criminals so bred up to crime are not wholly and absolutely responsible for the crimes they commit. The society which is conscious of the existence of the fact, and which has the power to remove those evil influences which bring the child to crime, is assuredly in part responsible for the commission of those crimes. Society is *particeps criminis* in so far as it is responsible for the existence of the vice and misery which breed the criminals. Society, therefore, is justly bound to bear in part the

burthen of the sins which result from its own blind and criminal neglect. To destroy (for crime) the life of one whom it has allowed by its criminal negligence to be brought up and trained in the ways of vice is plainly to throw upon the wretched being the total expiation of a crime for which itself is in part responsible.

The external influences operating on man's minds and inducing and even driving them to crime are innumerable. Some of them are manifest enough to all of us; but some are of a kind which none but the Omniscient can appreciate. Enough for this argument that such influences do exist, and do operate upon man and impel him irresistibly to crime.

But there are other influences, of an internal sort, in action. I mean influences attaching to his very organisation—over which he has no control—and which also impel him to crime. These are still more difficult of appreciation; though the broad fact of their existence is an undeniable truth. Not only are the features of an individual transmitted from generation to generation, but even the very characteristics of his mind, his diseases, his peculiarities, his thoughts and passions, are often repeated, and through a long series of offspring —"to the third and fourth generation." No one, again, can define absolutely the line which divides sanity from insanity. No one can mark the distinction between a responsible action, and an action which is the product of an irresistible, an irrepressible impulse. The law may step in, and must step in and roughly and with manifest injustice cut the knot; but still assuredly mortal justice can take no true measure of the absolute degree of responsibility which attaches to the commission of crime.

Before everything, therefore, mortal justice to be wise and just should be merciful. Its object should be the reformation, not the punishment, of the criminal. But hanging a criminal is not merciful justice; it is revenge, cruel and brutal revenge. To hang a man because "society would not be safe" if his life were saved, is to distribute justice upon the most unmerciful and selfish of motives. Society, as we have shown, is itself responsible for a large share of the crimes which proceed from ignorance and vice, and should, therefore, in all justice, bear its share of the consequences of the crime. Pity, again, the offspring of that scientific knowledge which points to the faulty organisation of a man, to the hereditary transmission of diseases mental and bodily, should teach us to stay our hand from doing the irreparable deed of death upon a criminal. Even if it were proved, which it never has been, that hanging a man deterred others from the commission of crime, hanging would still be unwarrantable, and for the reasons above assigned. It is neither Christian nor scientific justice. It is the expression of revenge and selfishness on the part of society.

REFORMATORY SECTION.

ADDRESS BY THE CHAIRMAN.

Our Improved Treatment of Criminals in 1864. *By* SIR WALTER CROFTON, C.B., *Vice-President of the Department, and Chairman of the Section.*

IT is my intention to divide my subject into two parts:

1st. Prisoners under sentence of penal servitude, whom I shall term "convicts."

2ndly. Prisoners who are under terms of imprisonment in our county and borough gaols.

At the commencement of the last Parliamentary session, it will be remembered that the Home Secretary brought in a Bill entitled the "Penal Servitude Act Amendment," which he stated was introduced in order to give effect to the Report of the Royal Commissioners on Penal Servitude. So far as increasing the length of sentences, and placing licence-holders under penal disabilities, the Bill, with certain amendments subsequently introduced, was of very great importance. But the paper termed "Penal Servitude Correspondence," which was a correspondence between the Home Secretary and the Directors of Convict Prisons, and laid upon the table of the House of Commons at the same time, was far better calculated to show the fundamental changes made and making in the English convict system, in accordance with the recommendation of the Royal Commissioners.

We have recently seen the report of the Directors of Convict Prisons, and we find—

1st. That their object has been to make their separate, or first stage, of punishment as deterrent as possible.

2nd. That in consequence of the evils attendant on the massing together such large bodies of convicts as are assembled at the public works prisons having become evident, they had taken steps for subdividing them, so as to effect complete separation.

3rd. That the "mark system" is being introduced, and the existing classification revised.

4th. That the dietary has been considerably reduced.

5th. That the "gratuities" to convicts have been very much decreased.

6th. That "photography" has been introduced.

On consideration of these changes they will be found to be important changes of principle, which cannot fail to give satisfaction to the public.

"Separate prisons" had been erected at an enormous cost, and it therefore was an error in principle not to make that stage of punishment as deterring as possible.

The large masses of convicts assembled in the public works prisons had given them a power which had become excessively formidable. So long as the diet was high, the gratuities large, and no particular restriction existed with regard to the liberation of convicts on "tickets of licence," the danger was not so great. But with the alterations proposed by the Royal Commissioners, and now carrying out by the directors, it became imperative to obtain better control over the convicts by a subdivision of the prisons. In addition to this, it will be evident to all governors of prisons that the moral advantages gained through dealing with convicts in smaller numbers will be very great.

I now pass to the introduction of a system of "marks." We all know that a mark system was introduced into Ireland early in 1855, and that one was also, at a subsequent period, introduced into Western Australia.

"Marks" originated with either the late Archbishop of Dublin, or with the late Captain Maconochie, I am not sure which. The system has not been carried out either in Ireland or Western Australia according to Captain Maconochie's plans, but it is governed by the same principle, and serves to realise to the mind of the criminal that his doings are very minutely recorded, and that his progress depends upon his own exertions.

I am glad to observe, by a circular recently transmitted by the Home Secretary to the Judges, that he places such value on the introduction of this system, and I believe with him, that very great advantage will accrue from it, provided sufficient care is exercised in its administration.

Both Dr. Whateley and Captain Maconochie lived to see the introduction of "marks" into the Irish convict prisons, and some of the reformatory schools. I would that before passing from among us, they had witnessed this their further extension.

The reduction in the dietary will, according to a calculation made by the directors, cause a saving to the public of between £10,000 and £11,000 per annum. The reduction in the amount of the "gratuities" will, according to the same authority, effect a saving of nearly £6,000 a year.

The economical view of these changes will, no doubt, very strongly recommend itself to the public, but there are higher grounds than this on which they will meet with very general approval.

The introduction of "photography" into our prisons, is a measure which, I think, all will agree should be concurrent with legislation, which not only notes "habitual offenders" as a class, but entails upon them cumulative punishments, and other penal disabilities.

In my paper of last year I called attention to the circumstance, that these great changes would most probably give rise, in the first instance, to insubordination in the convict establishments,—that the reduction of diet would especially give offence to the convicts. We have lately seen by the papers that mutinous combinations have

arisen as a consequence of this change. I trust that the public will not be too hasty in condemning the management of the convicts, when these outbreaks occur. Considering the class of persons dealt with, it would be strange if these changes could be carried out without troubles arising during the process.

But these are great and vital changes of the English convict system, and much care will no doubt be needed in its administration. It is well known that, in addition to these changes, I am a strong advocate for taking measures which afford a prospect of reconciling the public to the employment of the convicts when liberated.

What has occurred during the past year with our Australian colonies, with reference to sending our convicts to the western shores, should operate as a warning to us to neglect no opportunity to try any plan, which would appear likely to conduce to the employment at home of our convict population when liberated. "Voluntary emigration" fortunately takes many from our shores to start in a new field, and, as we hope, with improved habits, but we must not depend entirely upon this outlet.

I note with satisfaction a statement made by the directors, in the penal servitude correspondence before referred to, "that they will be glad to consider whether any plan can be adopted, whereby the condition of well-conducted industrious men may be ameliorated, towards the end of their long sentences, with a view to better fit them for discharge." We are justified in concluding, therefore, that this most important matter will not be neglected, and must trust that it will not even be longer delayed.

When the Royal Commissioners reported, this branch of the subject did not press for immediate consideration, because it was considered that we could send all our able-bodied convicts to Western Australia. But who can now entertain this opinion? The government have recently consented to send but a limited number, in consideration of the wishes of the other Australian colonists; and who can read the report of the Commissioners sent from Melbourne to Western Australia, which was published in the *Melbourne Argus* of June 25, 1864, and not feel that the time is at hand, when we shall no longer be able to avail ourselves of our present convict outlet?

I say, therefore, that this part of the subject now claims our immediate and most earnest attention. In Ireland I found that the establishment of "intermediate prisons" met the object in view, and materially assisted the employment of liberated convicts by the public. It is intelligible that they should have had this effect, and no reliable person conversant with the working of the system can for one moment hesitate at making this admission. The fact that successive governments have allowed it to receive their approval, when nothing of the kind was attempted in this country, is conclusive upon this point. Captain Whitty (who has greater experience in convict matters than any person in the United Kingdom), assures me that the system works entirely to his satisfaction.

We have, fortunately, "discharged prisoners' aid societies" to

help us in this country, and I hope that this important branch of the subject will receive due consideration.

There is another point, and a very urgent one, to which I must call your attention. I allude to the subject of the disposal of our "female convicts," an end which I hold cannot be attained without the establishment of "refuges." There is a strong desire felt in this country to follow the course which has been taken in Ireland in this matter, and I cannot gather that any difference of opinion exists with regard to it. The Royal Commissioners were in utter despair about the female convicts, and consigned them to the care of religious and charitable institutions.

We are informed by the directors' report recently published, that a change is to be made with regard to "Fulham," and that the subject of "female convicts" is under the consideration of the Secretary of State. I sincerely trust that the result of this consideration will be to enlist the co-operation of voluntary effort in the form of "refuges," and to give them the same encouragement which is given in Ireland.

I think all persons who study the subject of our secondary punishments, will agree with the Home Secretary's decision as to "life sentences." In his recent circular to the judges, he says, "that when passed they ought really to imply that those who have incurred them shall never again be allowed to return to society either at home, or in a colony, unless the mercy of the Crown should be extended to them on special grounds. After a certain time, if they behave well, the severity of their punishment might be properly relaxed, but they never ought to regain even the qualified pardon of the holder of a "ticket-of-leave."

It is desirable that this portion of the subject which presents some difficulties should also receive some consideration. It is not difficult to see that our whole arrangements with regard to prisoners of this class will have to be altered in both England and Ireland; and that if "life sentences" are to be really carried out, instead of being the shams which they have hitherto been, we may reasonably expect a diminution in our "capital punishments."

It is unnecessary that I should do more than briefly notice the subject of "police supervision over licence-holders," all-important as that subject is. It has by the fourth clause of the Penal Servitude Act, now become the law of the land. It will be seen by the wording of this clause, that the chief officer of police has power to receive a monthly report of the convict at such time and place, in such manner, and through such person as he may appoint. Under well considered instructions therefore, we may hope to find the chief constable availing himself of the co-operation of "prisoners' aid societies," magistrates, clergymen, and other responsible persons.

We have heard much, far too much, about the probability of the police abusing the power which legislation has given them. I read a short time since, a circular to the police issued by the chief constable of the counties of Cumberland and Westmoreland, which does

him infinite credit, and illustrates what we may reasonably expect to find from gentlemen in his position. The circular to which I refer is dated April 25, 1864, and was called forth by some instructions which had been issued by the Home Secretary with regard to ticket-of-leave holders. He states, "The police should never in the remotest way either by word or act, directly or indirectly, unnecessarily annoy, or be the means of preventing such convicts from obtaining any work whereby they would be enabled to earn an honest livelihood. On the contrary, whenever the police have an opportunity to do a kind thing towards any of these convicts they should do it, and at the same time endeavour to convince them that if they are sincere in their intentions to give up their criminal courses, and become honest men, the police will always use their best offices to try and procure them some employment or other which would be likely to give them the opportunity of living in a respectable and proper way."

General Cartwright, the inspector of constabulary in the Midland, Eastern Counties, and North Wales district, in a report to the Home Office, dated February 9, 1864, states that he considers a periodical registration of licence-holders would have a salutary effect both on the ticket-of-leave men and the public, and informs us that they have in many cases obtained work through the assistance of the police.

We know that the police have been employed in ninety unions as assistant relieving officers of vagrants. Mr. Villiers was so impressed with the value of this agency as to recommend its general adoption. The Poor Law Committee, which has recently reported, after noticing the beneficial results obtained by the employment of the police in this capacity, recommend the extension of the practice.

I say, then, that we have reason to be most hopeful of beneficial results through the operation of the fourth clause of the Penal Servitude Act; but these results must of course depend mainly upon judicious instructions being issued by the Home Office. If the arrangements are not made systematically and with care, we shall assuredly reap failure where we have a right to expect success.

I do not believe that the public will ever be induced to surrender the control of the criminal classes, which legislation has at last very properly placed within their reach. I am of opinion that the bitter experience of past years, and the prospect of having to retain within our own shores cumulative numbers of criminals, make such a course impossible. It will be well, therefore, that we should all unite in endeavouring to give beneficial effect to the Penal Servitude Act, and to the measures which have been concurrently introduced.

I most sincerely congratulate the members of this Association on the adoption of principles which, from year to year, I might almost say, from month to month, they have continuously urged upon the Government and the public. Without at all assuming that our Penal Servitude procedure is as yet complete, for I believe it by no

means to be so, I yet think we must all acknowledge that during 1864 we have made some important steps of improvement.

I would also invite the attention of this Section to the earnest consideration of the discipline and treatment of our prisoners in county and borough gaols.

There has been considerable interest awakened in the country upon this most important portion of our treatment of criminals, which has been still further stimulated by the evidence given before the Lords' Committee in 1863, and by the very able report which was published with that evidence. A special question upon this subject has been fixed for our discussion, "Can a uniform System of Penal Discipline be established in County Gaols, and if so, in what way?"

I shall most sincerely rejoice if by any discussion or recommendation of ours we are enabled to assist in the solution of this question. I do not myself despair of such a result. The existence of very gross and alarming evils appears from the report of the Lords' Committee, and it is really marvellous how they have been so long suffered, notwithstanding the objections which have been repeatedly made to them by the inspectors. Public attention, however, having been now called to them, I have little fear that these discreditable practices will be allowed to continue as a blot both upon our prison discipline and our social system.

Those interested in the question will remember, that the Home Secretary, in May last, brought a "Gaols Bill" into the House of Commons, with a view to give effect to some of the recommendations made by Lord Carnarvon's Committee, and thereby to get rid of many existing abuses. This Bill (like many other Bills) did not go far enough to please some, and went too far to please others, the consequence being that it was repeatedly and ominously postponed, and ultimately at the close of the session withdrawn.

I must say that I regretted this course, for I believed that the Bill could have been altered in committee into a measure which would have been very beneficial to the country. Sir George Grey, to his credit, expressed his willingness to attend to any suggestions, and make any alterations which might appear to be desirable.

The Bill really contained some very valuable provisions.

1st. It authorised the discontinuance of certain gaols, which were inadequately provided with means for regulating the discipline and classification of prisoners.

2nd. It gave power to withhold the Treasury grants from such gaols as were not, in the opinion of the Secretary of State, provided with proper appliances for enforcing "hard labour," and required that the Secretary of State should be satisfied that such "hard labour" had been carried out in conformity with the sentences.

3rd. That cells, which were not of the ordinary dimensions entitling to a certificate, might be specially certified by the inspector for prisoners under three months' detention.

Surely these were most important provisions, and were well calcu-

lated not only to get rid of existing abuses, but to carry out many of the suggestions for improvement made by Lord Carnarvon's committee.

A correspondence was placed upon the table of the House of Commons on the introduction of this Bill, between the Home Office and the inspectors of prisons, to which was attached a report of the medical committee appointed to inquire into the dietary of the borough and county gaols.

This portion of the subject is important, and will no doubt be discussed here to-day. The Home Secretary has transmitted to the different courts of quarter sessions the scales of dietary recommended by the medical committee, and has suggested their adoption.

I do not know that it is absolutely necessary that in all gaols there should be the same ingredients of food, but I think it is most important that all should accept the principle of progressive dietaries now suggested by the Secretary of State.

It certainly was an anomaly requiring to be removed, that a prisoner convicted of a graver crime should, from the very commencement of his sentence, be performing equal labour, and receiving, side by side with the lesser offender, a more liberal diet. It has been my lot on the magisterial bench, to have been requested by prisoners to pass longer sentences upon them, in order that they might receive a higher scale of dietary, and any greater stultification of the objects of the criminal law than this I cannot very easily imagine. The practice has been defended upon medical grounds, which I am glad to find considered untenable by the Report of the Medical Committee.

It will be observed by the Bill, that it is intended to improve the classification and discipline in gaols, and it really appears to me, that having laid down the principle of progressive dietaries, we should not experience any difficulty in applying the diet classes to the discipline classes, and thereby cause very great improvement, and save very considerable trouble in the gaols.

We are all aware that the Lords' Committee on Prison Discipline was presided over by the Earl of Carnarvon, but we are not, perhaps, all aware that that nobleman did not confine his desire to improve the "prison discipline" of this country to the mere recommendations made in the Blue Book.

Lord Carnarvon endeavoured to give them practical effect in his own county, and I beg to refer my audience to his pamphlet, published by Murray, in Albemarle Street, in which they will find not only principles of punishment and amendment very clearly laid down, but that very rare accompaniment to principles, the details for carrying them out very carefully elaborated.

I will quote a paragraph from this pamphlet, which, to my mind, carries considerable weight with it, and I feel assured that many of my hearers will entirely concur in its force.

In referring to necessary changes to be made, the special committee of visiting justices say, "But in any such changes they wish not only to give effect to the penal part of the system, but to see

more fully developed those influences which may tend to the reformation of the prisoner. With this view they recognise both the discipline of 'hard labour,' and the discipline which may be enforced under industrial work. Both may be made integral parts of a prison system, but it is important to keep them separate. Hard labour, properly so called, belongs to short sentences, to the earlier stages of long imprisonment, and to the correction of prison offences. It ought, in the opinion of the committee, never entirely to disappear from the system of penal discipline, but it may with advantage be allowed, as the sentence advances, to give place gradually to industrial work. They desire that, from comparatively an early time, the prisoner should understand that the system under which he is placed is a strictly progressive one; that in the successive stages of imprisonment opportunities will be given him of proving his good intentions by the performance of actual work, and that it depends upon himself to ameliorate his condition morally and materially."

I think if we adopt this principle as our guiding star, we shall not go far wrong in our treatment of criminals. The circular transmitted recently by Sir George Grey to the Judges, shows us that this principle is henceforth to prevail in our convict treatment, and I cannot see why we cannot apply it to minor offenders in a manner which may prove generally satisfactory to the public.

It was stated in the House of Commons, that although the Secretary of State in his Bill took strong powers to insure the existence of proper appliances in gaols to enforce "hard labour," he did not define what would be considered "hard labour." This is, I believe, the real difficulty with which we have to contend. The Medical Committee, which inquired into the dietary question, defined an extra-diet for those employed at hard labour, and define it as labour which visibly quickens the breath and opens the pores. I have heard objections made to this definition, but on the whole I am inclined to consider it an intelligible one.

The employments which would produce this effect would be the treadwheel, the crank, stone-breaking, oakum beating, and some few others of the same character. I am quite aware that there are many prisoners in every gaol physically unfitted to be so employed, and that, although very generally the greatest rogues in the establishment, they escape with very slight punishment. These prisoners will in general be found employed in the fatigues of the prison, in the garden, or at some quantity of oakum picking which is not measured; or, perhaps, at the pleasant occupation of learning a trade from the commencement of their sentences.

Sometimes we find them placed at hard labour for short periods of the day, and upon extra diet in consequence.

I consider it is a very serious evil to society to allow these prisoners, who form a large portion of our prison inmates, to thus escape punishment, and I believe that if a regulated amount of really penal labour were exacted from them, it would be very beneficial to the community.

There surely need be no difficulty in forming effective and non-effective classes in every prison. The effective class to be employed at what may be defined by the Secretary of State to be "hard labour" (which might probably be the employments I have indicated), to be gradually relaxed through their own exertions into industrial and other more pleasant employments.

The non-effective class to be employed at rope picking—the quantity to be weighed to each prisoner, and to be of such an amount as to entail very considerable exertion to accomplish the task. This very penal employment—for it can be made so—to be, as with the "hard labour" class, gradually relaxed, through the individual's own exertions, into industrial employments of a more pleasant description.

I would reserve the industrial employments, the fatigues of the prison, garden work, &c., for those prisoners who through their own exertions have attained a high class in the prison, and who either as "effectives" or "non-effectives," have had to bear the burden and heat of the day.

I believe that the absence of interesting employment in the earlier portion of the sentence materially quickens the desire to be so employed, and can therefore be used as a strong motive power in our dealing with prisoners.

I am aware that I shall be met with the statement that although this is a good theory, there would be many practical difficulties in carrying it out. I confess I cannot see them, but I shall be very glad to discuss those which may be apparent to others.

I can state distinctly that I have seen such a classification as I have described, carried out at Winchester gaol under Lord Carnarvon's plan, and I am quite satisfied that it is a great success, and is very creditable to that establishment. I recommend that very serious attention should be given to it, for I believe that it contains the solution of our principal difficulties.

"Punishment" is made certain and exemplary to every prisoner, and is only relaxed through the exertions of each individual, which are recorded by "marks." "Amendment" is far from being neglected, as will be evident by the stimulus given to industry and self-control, and by the arrangements made for religious and secular instruction, which is held after the hours of labour have terminated.

Moreover the gratuities which have been authorised by a recent Act of Parliament are accorded on a very moderate scale, and as I consider on the soundest principle, *i.e.*, to those prisoners only who have performed work to their utmost ability. They are paid through a "prisoners' aid society," and as they are the result of increased labour, I do not expect they will be any extra charge to the county rate.

I am aware that some of those who hear me will object on principle to the use of the treadwheel and crank; and I am aware that there are many prisons which do not contain these appliances. I confess myself as favourable to their use, provided they are applied productively;

and I feel quite sure that if worked upon a system such as I have described, we need not fear any ill effects upon the minds of the prisoners. It is probable that some persons will not agree with me on this point, but I would submit that any difference upon it need not prevent our concurring in the general features of a plan of "prison discipline." "Hard labour" need not be confined to the treadwheel or the crank, as I have before stated, other work can be found which will both "quicken the breath and open the pores."

Let us, therefore, approach the consideration of the special question placed before us, "Can a uniform System of Penal Discipline be established in County Gaols; and if so, in what way?" with a determination to effect its solution.

I do not expect that we shall arrive at this solution without many mutual concessions, but I do believe that our differences will be found to be more those of detail than of principle.

I beg to suggest that we take the provisions of the Gaols Bill to which I have referred, and the recommendation for a progressive dietary as our basis for discussion.

These points will be found to be the gist of the Bill, which is to be referred to a select committee early next session, and appear to me to be those which are most calculated to aid us in the solution of our question. Our discussing them, therefore, cannot fail to be of great public advantage.

On the Penal Servitude Acts. By M. D. Hill, *Recorder of Birmingham.*

The passing of the new Penal Servitude Act* is an event which I trust will form an epoch in the history of our jurisprudence.

The treatment of criminals with the unswerving purpose of reforming them, deviating neither into indulgence on the one hand, nor into unnecessary harshness on the other; their supervision after discharge, to protect the public against the danger of their relapse, to protect themselves against unjust suspicion and consequent persecution, and also to afford them some aid in obtaining employment under the all but overwhelming disadvantages attending their return to society; these, I rejoice to say, are now the accepted principles of our jurisprudence—applicable in greater or less degree to all but capital cases; and I look upon the Penal Servitude Act of the last session as having secured them from vicissitude. Not that our penal code has arrived at perfection, or made any near approach to it. We shall, I hope, go on to add improvements, and even move with accelerated speed; yet our efforts will, I venture to predict, be no longer directed to establish new principles, but only more fully to develop such as are already in action.

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* An Act to amend the Penal Servitude Acts, 27 & 28 Vict. c. 47.

Eleven years have elapsed since the law was so changed as to admit of the reformatory treatment of felons becoming one of its express objects.* In one part of the United Kingdom, namely, Ireland, the success of this change has been signal, attracting the earnest attention of our neighbours on the Continent. And while I am unacquainted with any one of their jurists who has condemned it (if any such there be) it has, I rejoice to say, been set forth with enthusiastic praise by several of high celebrity. At the head of these I must place the name of our colleague Baron Holtzendorff, Professor of Criminal Law in the University of Berlin, who having studied the Irish system in the official reports and in other works, came to our meeting at Dublin three years ago, to take part in that strict investigation of its merits which the Association then made.† Next to Baron Holtzendorff stands the venerable Doctor Mittermaier of Heidelberg, Professor of Criminal Law in that University, who has the merit of first drawing the attention of Continental jurists to what was then only an experiment.‡ Mittermaier was soon followed by M. Davésiès de Pontés, who brought the Irish system under the notice of the French nation in the pages of *La Revue des Deux Mondes.* His able article attracted the attention of the late Van der Brugghen, some time Minister of Justice for the Kingdom of Holland, who at his death left nearly finished an interesting exposition and defence of the system, which his friend Holtzendorff has completed and has just published.§ The latest contributor to the fame of Sir Walter Crofton's labours is M. de Marsangy, a French Judge, who has long made the treatment of criminals a special subject of study.‖ But the most precious testimony to the excellence of the Irish system was furnished by Count Cavour, who had accorded his high sanction to its principles, and had begun to reduce them to practice when suddenly withdrawn from his ever memorable career.

In our own island, however, the Irish system, notwithstanding the warm admiration of its English friends, has encountered a most formidable opposition, to be explained perhaps by the divergence in England from what our Association holds to be the true course of proceeding—a divergence which had unhappily become both wide and inveterate before the Irish experiment had made much progress. The Penal Servitude Bill of 1853 was the offspring of the Home Office, and Ministers proffered it in both Houses of Parliament as holding out to criminals, who could be prevailed upon to join heart and hand in the task of their own reformation, the reward of an abridgement of their sentence, so soon as it became manifest that their endeavours were crowned with success. The prisoners on whom the experiment was to be tried,

* 16 & 17 Vict., cap. 99.

† The Irish Convict System, by Baron von Holtzendorff, translated from the German. Simpkin and Marshall, 1860.

‡ Gefängnissverbesserung. Erlangen, 1858.

§ Etudes sur le systeme Penitentaire Irelandais. Berlin, 1864.

‖ De l'Amelioration de la Loi Criminelle. Paris, 1864.

were such as had committed offences punishable with transportation; but transportation was becoming daily more and more difficult to carry into effect. Our gaols were crowded with convicts awaiting disposal, and it could no longer be denied that we were at last thrown upon the necessity of keeping the largest and worst classes of our criminal population at home. Possibly the time is not far distant when we shall abandon all hope, and it may be all desire, of expatriating the remainder. Hence, provision was made in the Act for retaining the greater number of such criminals in the gaols under the control of the executive government, and for subjecting them for terms of years to hard labour. This punishment received the name of penal servitude, and by the provisions of the Act became the lot of the greater number of convicts who under the former state of the law would have been sentenced to transportation. It must be observed that in the measure itself no distinction as to privilege was drawn between convicts sentenced to transportation and convicts adjudged to penal servitude, and for the space of two years the Home Office was understood by all the world, both within and without the prison walls, as intending to govern itself according to the letter and spirit of the Act of which it had been the promoter. In October, 1855, however, Sir Joshua Jebb in a published letter,* announced to the consternation of the prisoners, and the astonishment of all connected with the administration of justice, that the privilege of abridging their punishment by industry and good conduct was to be confined to transports, to the utter exclusion of the men who had been during that period sentenced, or should thereafter be sentenced, to penal servitude. It subsequently appeared that Sir Joshua himself, though at the head of the convict department, had not been entrusted with the secret intention of his superiors.

The consequences of what was universally deemed in the convict gaols a breach of faith, were most pernicious. The prisoners so cruelly disappointed became sullen and turbulent, and the evil spirit of mutiny thus evoked, led, as we all know, to the most deplorable excesses, and has not even yet been exorcised. Some light on the policy of this extraordinary measure is shed by the letter to which I have referred. As the number of convicts who could by law be sentenced to transportation must thenceforth be very few, the exclusion of penal servitude men would eventually, the writer predicted, render the provision for discharge on licence "almost a dead letter." In other words, the Home Office which had obtained the Act, was about by its own authority to repeal it! Of its vitality indeed it had already been deprived. The industry and good conduct, which the legislature intended to stimulate by the change, was construed to mean nothing more than abstinence from misconduct. And the favoured class, with very few exceptions, were actually discharged at the earliest period at which by the regulations of the department, licences could be issued. Nay, even such members of the class as

* *Times*, October 18, 1855.

had failed to comply with this most lenient condition, were permitted soon to follow their comrades.

But it was imperative forthwith to deal with the spirit of mutiny in some way, and other motives must be found to replace the prospect of liberty now shut out. Meanwhile, as the reports of the directors abundantly show, the higher officers of the convict gaols were painfully conscious that no other motive could vie in efficacy with that which had been discarded. In this perplexity, resort was had to pernicious indulgence in diet, in drink, in diminishing the amount of labour exacted, and in increasing the gratuities awarded. Moreover, even the negative standard of behaviour was lowered, the rule of abstinence from misconduct receiving a very lax interpretation. This last step in degeneracy originated in the vast number of felons congregated in each prison. The warders felt overawed by the great disparity of physical force which might be arrayed against them whenever the hostile feelings of the multitude rose to a certain height. Now a permanent impression of this kind on the mind of the warders, whose duty it is to report on the conduct of the prisoners, is sure to create the habit of timid construction. And as if this inducement to frame reports unduly favourable were not sufficiently injurious, the emolument of the officer was made to depend on the good conduct—that is the good conduct as reported by himself—of the men under his charge. No wonder that the result of these accumulated errors was a state of things against which the patience of the country revolted. But matter equally grave remains behind. That such treatment could afford no ground for confidence in the reformation of the criminal, was avowed in express terms by the minister under whose guidance the system had been thus perverted; he intimating, by way of defence, that no course of prison discipline which could be devised, would produce the desired effect. This conclusion, whether true, as the minister no doubt sincerely believed, or false, as the experience of Ireland has demonstrated, ought assuredly to have led him to deal with the convicts in a manner entirely opposed to that which he selected. As I have already said, the number of transports not deported had become very large, and since prison discipline had failed of its reformatory effect, it was plainly desirable in the highest degree to keep them in confinement as long as possible; that is, till the expiration of the sentence pronounced by the judge. And again, if for any reason, well or ill-founded, they were suffered to depart before that period, they ought to have been held under strict supervision; so that as soon as the conditions of their licence were violated (an event but too probable), they should be returned forthwith to prison. Neither of these obvious expedients was adopted. Not only, as I have already stated, was the prisoner discharged at the earliest moment, but (with so few exceptions that they are really insignificant) he found himself in precisely the same position as if his discharge had been irrevocable!

Such being the facts and results, it will hardly be doubted that for immediate purposes it would have been far better to abolish all

remission of punishment, thereby retaining to its fullest permitted extent the advantage of "incapacitation." But conditional discharge embodied a principle too valuable to be thus abandoned. The success of the new law as reduced to practice in Ireland had convinced a large proportion of all who had studied the subject that the principle was sound, and that the evil results in England were due to maladministration, and maladministration alone. We therefore owe much to the Committee of the House of Commons of 1856, which defeated the intention of the Home Office to bring the ticket-of-leave system to a close; although by the refusal of the department to act on several of the most weighty of their suggestions, little was accomplished beyond keeping the principle alive until its value should be more thoroughly understood by the nation; because although the barrier which excluded convicts adjudged to penal servitude, was, in deference to one of the committee's resolutions, thrown down by the Act of 1857,* yet, for the reasons already adduced, any addition to the number of discharges on ticket-of-leave operated—as discharges were then awarded—only to aggravate an evil which had already become the subject of bitter complaint.

The recommendations of the Royal Commission which sat last year on the working of the Penal Servitude Acts are too well-known to justify me in reproducing them to your notice. They are to a considerable extent embodied partly in the Act just passed, and partly in the new regulations promulgated by the Home Office. The minimum of penal servitude is raised from three years to five, with a view of guarding against the evils of terms too short to admit of a full course of reformatory training, which to be complete must include sufficient space for that essential stage of probation lying between conditional freedom, and the expiration of the sentence. Upon second conviction, seven years are made the minimum, in order that hardened criminals shall be visited with "incapacitation" for a very long period should their reformation prove hopeless. To tie up the hands of the judge by enacting minimum sentences is a proceeding not without objection. In the present instance, however, inasmuch as he is not bound to inflict penal servitude at all, even on a second conviction, it will be feared by some that the severity of the penalty may cause him to shrink from adjudging prisoners to penal servitude even in cases where no lighter punishment would meet the deserts of the offenders, and that he will therefore content himself with awarding imprisonment, whereby he will not only perniciously shorten the period of restraint, but will deprive the convict of what, by common consent, is now admitted to be the most powerful of all motives to self-reformation; no ticket-of-leave being granted in any punishment less severe than penal servitude. Let us hope, however, that the judicial body will become as strongly impressed as the legislature has shown itself to be with the evils of short confinements, which are in truth an education to crime. Too brief to admit of reformatory appliances

* 20 & 21 Vict. c. 3.

being exercised to any good purpose, they by their frequent recurrence gradually inure the prisoner to the disgrace and hardships of his lot, enrolling him permanently in the class which makes crime its calling in life, and providing him on his discharge with an ample choice of abandoned associates. Should then these provisions of the new Act produce the counteracting effect anticipated by their framers, they will yield in utility to none in the statute.

The power either to revoke a licence whose conditions had been broken, or to permit it still to remain in force, was heretofore altogether vested in the Secretary of State for the Home Department. But the minister was left, or he left himself, without the means of information as to who among ticket-of-leave men were pursuing an honest life and who had relapsed into evil courses. And even had this information been obtained no mode of testing its truth was provided by the law. Such a state of things, although its existence cannot be denied, is almost beyond belief. Nevertheless it is the natural consequence of one fundamental error. When a prisoner returned to society it was thought essential to his procuring employment that his antecedent conduct should remain unknown. Consequently, not even the police were entrusted with the secret of his conviction or convictions, which were often numerous. How far the Government, in this exclusive regard to the interests of the guilty, was performing its duty towards the innocent I need not stop to inquire, because this concealment is inimical to the true and permanent interests of the well disposed among the fallen themselves. It confounds the hardened offender with the repentant, the unreformed with him who has profited by suffering, instruction, and training. It strengthens, and almost justifies, hostility against every man who has been the inmate of a prison, and consequently it reduces to despair all such, however qualified they may have become to re-enter with mutual advantage the brotherhood of mankind. In short, a more successful expedient could not have been devised for preventing desertion from the great army of criminals which harasses the land.

But the public is held in certain quarters to be utterly incredulous of reformation. Alas! the treatment of criminals, both within and without the walls of our prisons, has been such as to engender a large amount of scepticism. Happily, however, we may point to the experience of Ireland, which assures us that if we can and will reform our criminals, and if we offer to employers fair evidence that such reformation is genuine, the difficulty will be gradually overcome.

The new Act, then, repudiates the whole doctrine of concealment. It provides for the supervision of ticket-of-leave men, first, by making it incumbent on them to report themselves once in every month to the head of the police of the district in which they reside; and next, by empowering any police officer to carry a ticket-holder before a magistrate to answer the charge of breaking the conditions of his licence, which charge when proved will, in all serious cases, work its

forfeiture, and even in minor instances leads to some imprisonment. The Home Office, I am happy to say, has further ensured the identification of convicts, whether discharged on licence or unconditionally, by a distribution of photographic portraits to chiefs of police; so that a machinery is now coming into action by which licencees will be held in check during their final term of probation, and all convicts, whether licence-holders or not, will, it is hoped, be identified with facility, whereby, on a subsequent trial, the proof of a prior conviction will be relieved of the many difficulties which now surround it.

Thus although the Home Office had set itself in determined opposition to the declared opinion of both Houses of Parliament, namely, that the monthly reports were essential to the due supervision of licences, and had only yielded at the last moment, yet I gladly admit that, judging by its late regulations, it has determined to carry the Act into full execution; and further to adopt in good faith several important suggestions of the commissioners, by no means in accordance with the views of the department, as collected from its former practice. By these regulations that negative conduct which was the sole end and object of the former treatment is no longer to remain the criterion determining a prisoner's claim to a discharge on licence. In the emphatic language of the commissioners, accepted and repeated in the regulations, the prisoner is henceforth to "earn" his discharge by strenuous and active exertions. He is to work his way out of prison by his industry—general good conduct, however, remaining an indispensable condition of release. Thus the controversy of years arrives at its termination, and the treatment of convicts is brought into agreement with the intention of the Legislature as expressed in 1853.

Again,—some portion of what Captain Maconochie called his mark system is being introduced. Its object is to estimate and register the industry and behaviour of the prisoner, and to facilitate the employment of fines for relapse into misconduct. Let me express a hope that the many ingenious expedients of this lamented and, I grieve to add, unrewarded philanthropist, will be further drawn upon by his countrymen, and that his services becoming better known, his widow, who sacrificed, and cheerfully sacrificed, her fortune for the prosecution of her husband's experiments, will not be suffered much longer to remain in a state but little removed from want.

Such, then, is the aspect of this great branch of the treatment of criminals. Our Association cannot congratulate itself as having accomplished all it has attempted, but surely we have much to encourage us in future endeavours. We have zealously assisted in bringing over the largest part of the Irish system into our own island. Yet I cannot but lament that we have been obliged to leave one portion behind to which Sir Walter Crofton justly attaches unlimited value; I refer to what he denominates the intermediate stage, a height in the progress of the candidate for a ticket-of-leave, which when he has scaled, places him between confinement and liberty. At this point

physical restraints are altogether withdrawn, and the prisoner (if so he still must be called), is only retained under control by his sense of duty and the consciousness that he will be thrust back into a lower stage should he abuse his allotted measure of relaxation in discipline. But I cannot believe that from an arch wanting comparatively so little to perfect it the stray stone will very long be withheld.

I pass over some other improvements, just remarking that changes have been made in the diet of the convicts, and errors connected with the allotment of diet to particular classes of prisoners have been rectified. I believe, too, another rectification is contemplated, namely, a reduction in the numbers congregated in any one gaol.

All now depends upon the administration of the measures brought, or promptly to be brought, into operation. It cannot be denied that the Home Department is placed in a condition of no common responsibility. The gentlemen who compose it have to conduct a system reformed, not with their aid or concurrence, but in spite of their strenuous opposition and powerful influence; and no labour, I freely admit, can be more arduous or more irksome than that which they must undergo, until by the force of truth, their opinions are brought into harmony with their duties. Speaking, however, as I do, of intelligent and honourable men, that is a consummation which I not only devoutly wish, but confidently expect.

On Discharged Prisoners, and the Means of Assisting them to Obtain an Honest Living. By James Marshall.

When a criminal has undergone the sentence of the law and leaves a prison to return again to common life, it is of great importance both to himself and to society that whatever good resolutions he may have formed, whether proceeding from conscience or from prudence, in favour of a life of honest industry, should not be thwarted by the adverse circumstances of his situation. He comes out of prison with a damaged character,—generally without money or proper clothing; his home, if he had one, broken up, and the tools of his trade gone. He is thus placed in circumstances of peculiar temptation, and ready to become the prey of those trained criminals, who, especially in London, lie in wait for him as he issues from prison, and hold out every lure to engage him again in crime. If, escaping these toils, the ex-prisoner tries to get honest employment, the pressure of his immediate wants, and, above all, the want of character, often stand fatally in the way of his success. Need we then wonder, that a man in a situation so forlorn and helpless should at length succumb and relapse into crime, as the only means of getting a living.

To avert this deplorable result, various societies have been formed for the purpose of aiding well-disposed ex-prisoners in their desire of obtaining honest work. But it is only the well-disposed that can be thus helped. The man is now his own master; he is no longer the

subject of compulsory discipline. The utmost that can be done for him is to remove obstacles to his getting work; but the battle must be fought by himself; and unless he has the will and the capacity to work, all efforts on his behalf must be fruitless.

One mode of helping ex-prisoners, has been the formation of institutions for the reception of such as are willing to subject themselves to a system of strict discipline, for such period as might be deemed necessary for fitting them to obtain work. As they come to such institutions voluntarily, and as they may depart at any time during the period of probation, their going through the discipline satisfactorily gives reasonable assurance that they are animated by such a sincere desire of honest work, and have such a capacity for steady industry, as may justify the managers in recommending them for employment. Of this sort was the Refuge for Male Criminals opened some years ago in Smith Street, Westminster; but which was, unfortunately, given up for want of funds. Of the same nature also, are those institutions in Middlesex and elsewhere, formed for the reception of female ex-prisoners, which have been attended with signal success in training domestic servants and placing many in situations which they now fill with honesty and credit.

But institutions involving reformatory training and the maintenance of prisoners for lengthened periods are necessarily expensive, while it has been found that many prisoners coming from county or borough gaols, who have not as yet gone beyond the first stage in crime, but have previously lived by honest industry, do not stand in need of such reformatory discipline, and may be effectually helped to obtain work at a trifling expenditure of money. It is found that a supply, according to the exigency of the case, of lodging and food for a few days, of necessary clothing or tools of trade, or a small outfit for the sea, is all that is required to get many an ex-prisoner into honest employment and give him a fresh start in a course of well doing.

Various associations, called "Discharged Prisoners' Aid Societies," have been formed for the purpose of aiding prisoners on this plan. The earliest of these societies was devoted exclusively to convicts coming from Government prisons; men whose crimes were of a deep dye, and most of whom had been habitual criminals; but who, having been subjected to long periods of prison discipline, in part reformatory, it was thought might be effectually aided in getting work, without any additional probationary discipline; more especially as by voluntarily giving up their prison earnings, proof was afforded of the sincerity of their desire to do well, and at the same time a fund was supplied by means of which the society could more effectually place them in circumstances favourable to well doing. An account of the operations of this society has been already read before the Association, in two papers by Mr. Ranken, the honorary secretary, printed in the *Transactions*.*

* See *Transactions* of 1858, p. 368; 1860, p. 475.

The success of this effort on behalf of Government prisoners led to the formation of societies to help prisoners coming from county and borough gaols.

The first effort of this kind was a discharged prisoners' aid society formed in connection with the Birmingham Gaol. The operations of this society show the smallness of the expenditure necessary for giving effectual help to prisoners.

During the two years, 1860 and 1861, 407 persons were aided in obtaining work at a total expenditure of £558 17*s.* 4½*d.*, being an average of £1 7*s.* 5½*d.* for each person; but if the cost of agency and management were deducted, then the average outlay on each person in actual aid was only 14*s.* 5½*d.* That a careful scrutiny was exercised in the selection of the cases, is evinced by the fact that the whole number aided did not exceed ten per cent. of the number of prisoners discharged during the two years.

The aid afforded by the Birmingham Society was supplied wholly by voluntary contributions, but its operations were so beneficial that it was considered advisable that the funds to be applied for the benefit of ex-prisoners by that and other similar societies should be supplied out of the county and borough rates; and accordingly, by the Act 25 & 26 Vict. c. 40, the visiting justices of county and borough prisons were empowered to grant sums not exceeding £2 in each case, to be applied for the benefit of the prisoners through the instrumentality of discharged prisoners' aid societies, who should be approved and certified as therein mentioned. Among other societies which have been certified under the Act of Parliament, is one formed for the county of Middlesex under the auspices of the Refuge and Reformatory Union. The operation has been as yet confined to the county prison of Coldbath Fields, where the average number of prisoners exceeds 1,800. The society has been in action now over six months. A short detail of the proceedings may be useful as a guide to similar societies which may hereafter be formed in other counties and boroughs.

The first step was to select an agent well acquainted with criminals of all gradations, and at the same time qualified to mediate with employers on behalf of the prisoners. A satisfactory selection having been made, the prison authorities appointed a Scripture-reader, among whose duties it is, under the superintendence of the governor and chaplain, to converse with the prisoners about to be discharged, and ascertain who among them are likely to be proper objects of the society's aid. Three things are necessary to be ascertained, as far as possible, in order to a grant of assistance. 1st, That the man is sincerely desirous of honest work; 2nd, That he is capable of work; and 3rd, That he needs help.

When the officers of the prison consider that a prisoner's statements give hope that these points can be established, the society's agent proceeds to investigate the case out of doors. He makes inquiries as to the former occupations, habits, and character of the prisoner; whether he has any friends willing to assist him; and

what prospect there is of getting him put to work. The matter is then laid before the visiting justices, at their weekly meeting preceding the prisoner's discharge. If the application is entertained, a sum not exceeding £2 5*s.* is directed to be applied for the benefit of the prisoner: according to the prison rules, each prisoner is entitled, on his discharge, to receive 2*s.* 6*d.* for every three months of his imprisonment during which he has not been reported for breach of prison discipline. This is commonly called "star money," from his wearing on the sleeve of his jacket a star for each 2*s.* 6*d.* due to him. In order to test their sincerity, prisoners are required, as a condition of obtaining assistance, to give up their star money to the society's agent, to be applied for their benefit along with the money granted by the visiting justices. It sometimes happens that this condition is refused, and the prisoner prefers to depart with his star money only. When a grant is made, the prisoner leaves the prison under the care of the society's agent, who endeavours to find employment for him, or encourages him to apply for it himself; in the meantime the agent assists him with food and lodging on a very moderate scale; the regular allowance being sixpence a day for food, and fourpence a night for lodging. As those cases only have been taken up, where there was a probability of work being immediately obtained, these expenses have never gone beyond a few days; the money spent on the prisoners for other purposes has been for proper clothing, for necessary tools of trade, and for outfit to sea. During the six months from February to August last, 160 prisoners have been aided to obtain work, at a cost of not more, on an average, than £1 for each prisoner: this includes the outfit of thirty-nine prisoners who were sent to sea at an expense of from 30*s.* to £2 each; the others were disposed of generally with a much smaller outlay, most of them returning to the occupation they had followed before they went to prison. The whole of the money thus expended under the grants of the visiting justices, was laid out exclusively on the prisoners, nothing being applied from that source to expenses of management, which have been defrayed entirely from funds derived from voluntary subscriptions. It has been doubted whether the Act of Parliament gives the visiting justices the power of granting any money applicable to the expenses of management, but provided that £2, the amount limited by the Act for each prisoner is not exceeded, it is conceived that a small proportion of the amount granted might be directed to be applied to expenses of management, as being expenditure for the benefit of the prisoner within the meaning of the Act.

The expense of management in such a society need not in any case be great, in that for Middlesex it has been unusually small. It has not been necessary to hire premises, inasmuch as the Reformatory and Refuge Union have given their board-room for the meetings of the committee. The duties of secretary have been voluntarily undertaken by Mr. Murray Browne, the honorary secretary, to whose exertions the society is deeply indebted; and the printing has been

done in the prison, so that the salary of the agent and a few incidental expenses constitute the whole expenditure. The whole number discharged from the prison during the six months adverted to, has been 3,700; while those it has been thought advisable to assist have been only 160. It must be remembered, however, that of discharged prisoners, it is estimated that 70 per cent. are not again heard of. About 30 per cent. is the proportion that returns to crime and to prison. Of these latter a large portion are disorderly persons, vagrants, and other misdemeanants, classes of persons almost wholly without the scope of the society's operation; of the remainder a large proportion are habitual thieves, who prefer to live by plunder, at the risk of occasional imprisonment, and who, as has been well said, "are as certain to return to crime when they get out of prison as an honest man after a prolonged illness is certain to return to his ordinary work." No aid which the society can afford can reach this class. Their destiny is penal servitude. We do not, however, shut the door against any for whom hopes may be entertained; and amongst those got away to sea, are young men who have been several times previously convicted. They were apparently sincere in their desire for work of that sort, and we have in these and some other cases stretched a point to give them a chance to break off their bad associations. But with some such exceptional cases, the society's field of operation has been among those who have not gone beyond the first steps in crime, and who have previously followed occupations to which they could return.

For so short a period it would be rash to talk with much confidence about results. The agent from time to time visits or inquires after those whom he has assisted to obtain work. Only two are known out of the 160 assisted to have lapsed into crime. Some have been lost sight of, but the greater number there is reason to believe, are going on well. No doubt there will be some failures, but it should be considered that even in a pecuniary point of view, one success will cover many failures. When one man is saved from a life of crime and added to the ranks of honest industry—the gain is great. The community is saved, not only what he will plunder when at liberty, but the expense, sometimes often renewed, of trying him for his crimes, and of maintaining and guarding him during that large portion of his life which the habitual criminal spends in prison; but, above all, a fellow-creature is rescued from a life of guilt and crime, and instead of being a terror and disgrace, becomes an industrious and creditable member of the community.

On the Non-Imprisonment of Children. By Mary Carpenter.

The Reformatory Schools, established by the Act of Parliament passed in 1854, and the Industrial Schools, which were authorised

by the Industrial Schools' Act of 1857, have now become an established part of the legislation of our country. These Acts were passed after the strong testimonies borne by three Parliamentary Committees, that children ought never to be imprisoned, but to be treated in such manner as was in accordance with the demands of their tender years. The Select Committee of the House of Lords, in 1847, on "Transportation and Juvenile Offenders," thus speak in their Report: "That the contamination of a gaol, as gaols are usually managed, may often prove fatal, and must always be hurtful, to boys committed for a first offence, and that thus for a very trifling act they may become trained to the worst of crimes, is clear enough. But the evidence gives a frightful picture of the effects which are thus produced. In Liverpool, of fourteen cases, selected at random by the magistrates, there were several of the boys under twelve, who in the space of three or four years had been above fifteen times committed; and the average of the whole fourteen was no less than nine times." This Committee recommends for such offenders, the adoption, by way of trial, of Reformatory Institutions. The Select Committee of the House of Commons in 1850, though not sitting on this subject, but on prison discipline generally, conclude their Report by recommending industrial training and reformatory discipline for juvenile offenders.

The witnesses before the committees, who were persons connected with the administration of justice, and who spoke from their own practical experience, gave very strong testimony to the evil of sending children to prison, irrespective of the danger of contamination in gaol to which the Report alludes. Mr. Justice Coltman says, "It is to be borne constantly in mind, that it is in a great degree from ignorance, and the immature state of their reasoning powers, that they (children) offend; and a gaol, however well conducted, is, I fear, a bad school for them, and it fixes too dark a stain on their characters." Baron Alderson said, "I am fully persuaded that a judicious plan of reform for juvenile offenders would be the most economical, as well as the most merciful arrangement which could be made. The expenses now incurred by their repeated re-committals and trials greatly exceed the probable cost of an attempt at an effectual reformation; and to cure this class of offenders, would be to cut off one of the most prolific sources of adult crime." Rev. Whitworth Russell, H.M. Inspector of Prisons, says, "I would not commit a boy to prison at all; I would endeavour, throughout the whole proceedings, to avoid a committal to prison." Captain Williams, H.M. Inspector of Prisons, states, "At Wakefield, where I know that every care is taken of the boys, and where the education given them is such as would qualify them for almost every situation attainable in their state of life, the frequency of re-commitments has not diminished, but I believe increased." In the Perth gaol, "the state of order in the juvenile class was reported by the governors to be excellent," and the surgeon stated that it was impossible to witness the excellent condition and admirable discipline of the boys, without

the 'conviction' that they must be greatly benefited; yet the chaplain, the Rev. W. Brown, says, that "of seventy-six class boys, who were liberated between the 1st of July, 1850, and the 31st of December, 1851, a period of eighteen months, and who were especially inquired after, it has been ascertained that twenty-nine have entered into crime, fourteen of whom are now undergoing sentence of transportation."

Volumes might be filled with such evidence as the preceding, given to the various Parliamentary committees; similar evidence was also brought before the Reformatory Conferences, held at Birmingham in 1851 and 1853, and through them made known to the public, all proving that however well regulated a gaol may be, it is not, by its very nature, a fit place for a child, a young person of immature age; that it does not produce the intended effect of deterring from crime; that committal to one stamps a child for life; that it is therefore an expensive procedure. Surely to affix a stigma which can never be effaced on a young child who has not a legal right to control his own actions, is an enormous inconsistency, and a cruel injustice. The law of England carefully guards parental rights, and to a certain extent enforces parental responsibility. The child of fourteen has no right, however much he may deem it for his future advantage in life, without the consent of his father, to apprentice himself to a trade, whereby he may secure for himself the power of obtaining an honest living. If he may not do what is right, because he is under the responsibility of his father, why is he to be punished because his father has so neglected his duty as to allow him to do what is wrong? In some places we have heard that parents are punished, if, through their neglect, their children are injurious to society; and so they ought to be. Scripture affords us a solemn warning in the case of the aged Eli of the guilt attaching to those who neglect to restrain their children from evil. The ordinary treatment of children is never the same as that of adults; we do not expect from a boy or girl the knowledge of life, the wisdom which can be alone derived from experience, the power of guiding his actions, the development of conscience, or the physical condition of a man or woman. The vagaries of boys are never looked upon in the upper classes with a serious eye; and if they commit actions which are legally criminal, parental correction is administered. And yet a contrary course is pursued, as soon as a young boy of the lowest class of society proves by his conduct that he is ignorant of his duty, deficient in principle, and totally unfit to guide himself. Then the massive prison walls are open to receive him, ponderous keys are turned on him, an officer waits on him, he has rights which he can assert, he is treated as a man. The late city solicitor, Mr. Charles Pearson, stated to the Lords' Committee, "I think that the law of England is not fairly dealt by in its administration as regards children. By the common law of England, a child under years of discretion is not taken to be *capax doli*. By the theory of our law it is necessary that you should prove against a child charged

with crime, a precocious capacity for evil, or as Lord Hale describes it, a mischievous discretion. I press, with great submission, upon your lordships, as legislators, the propriety of applying this principle of the common law in this respect to poor, neglected, and destitute children."

All these arguments were brought forward more than ten years ago, and supported by a host of witnesses of the highest authority and experience. We hoped that we had gained the cause of the children when the Reformatory Act was passed; and though entrance to a Reformatory School required to be preceded by at least fourteen days' imprisonment, yet we trusted that the evident intention of the Legislature would be realised, and that henceforth our police courts and gaols would no longer be frequented by children.

But it was not so. In 1856, we find a return of a house to house visitation of ninety-one boys who were in Walton Gaol, Liverpool, on February 4th, of that year. The following is a specimen of the results, taken by chance. It clearly shows how completely neglected these poor boys had been, how impossible it was for them to lead any but a life of crime, and how useless it was to continue imprisoning them time after time:—

"J. J., aged 15, four times convicted. Parents with five children, in great distress. The children sent out to pick up what they can in the streets and about the docks. Father goes to the docks.

"W. J., aged 15. Father a worthless idle scoundrel. They have several children. The father lies in bed some days, sends the mother to beg, and the children to steal. He at other times goes out to pick up what he can. His house, a rendezvous for thieves.

"T. H., aged 15, once convicted. Father, a porter; is a widower; has three children. When inspector called, he had been three nights absent from home. Inquiry about him, unsatisfactory.

"T. J., aged 15, three times convicted. Step-father. The mother is a callous woman—does not look after her children. The boy earns his living with a Michael C———, with whom he lives, by tumbling in the streets. His parents appear comfortable.

"D. L., aged 12, once convicted. Parents drunkards. Father committed for six months for abusing his wife. She is a thief, and encourages her children to steal. All the family bad.

"J. B., aged 13, twice convicted. Father a thief—now transported. The boy lives with his mother.

"E. T., aged 16, four times convicted. Parents dead. Three sisters and this boy left. Two of the sisters married, and left the responsibility on the unmarried sister, who has done her best, the other two sisters refusing to aid in any way.

"F. B., aged 15, four times convicted. Mother, an industrious woman, goes out selling mugs. Father, a shoemaker, but seems careless. The boy is now incorrigible, which has arisen no doubt from the father's apparent negligence, coupled with the fact that the street is a pest-hole of thieves.

"W. J., aged 16, four times convicted. Father in the service of the Lancashire and Yorkshire Railway Company. The children are allowed to run about in that bad neighbourhood. They appear to be sober people.

"J. W., aged 16, four times convicted. Cannot find this boy's parents or any of his friends.

"W. D., aged 16, four times convicted. The children are allowed to go about the docks to pick up what they can. Two of the children are now in gaol."

A counterpart to this is a list of the same date of "notorious

harbours for juveniles of both sexes in Liverpool, forty-six in number." While these exist can any amount of improvement arrest the progress of time? Are these children to blame who have never had the opportunity which every young person in the realm ought to have—of learning how to gain an honest living, and to know his duty to God and man. The following is a specimen of the returns:—

"M. H. and wife, five in family. This is also a thieving family. Thieving is their stock-in-trade. The children clever adepts in the art, and his house a harbour for thieves, where their plunder is readily received.

"J. C. and wife, three in family, thieving. This man, his wife, and family are bad alike. The children are convicted. Receives the proceeds of theirs and young thieves' plunder who assemble in his den.

"J. M. and wife, four in family, thieving, have both been in prison. This fellow and his wife are as ugly in their faces as the crimes they commit. Themselves thieves, their children thieves, and they receive all the plunder brought to their house by thieves.

"J. F. and wife, five in family. Thieving. Father has been in prison. This man is now, or has been, in gaol for receiving; allows his children to go with thieves, which seems to be according to rule in Ben Johnson Street. To be decent in that street would be irregular, and might bring down the censure of the vagabonds.

"M. and wife, three in family. This man keeps a tramp house for young thieves. His own children mix with them, and sometimes share in the booty brought in.

"M. L., two in family. Thieving. This woman is a receiver of stolen property and encourages her children to steal.

"B., three in family. This man not only encourages his daughters to steal, but lives idle on the proceeds of their plunder.

"C. McK., two in family. This girl and her sister left their parents' house, 4 Court, Gay Street, who are bad, and first encouraged their children to steal, and they now keep a notorious house for young thieves.

"McK. and wife. Mother has been in gaol. This man and woman were the cause of their daughters becoming thieves. Mother tried for felony.

"Mrs. M., two in family. This woman lives on the plunder of her children, and encourages the children to steal, and bring the plunder to her house.

"N. C. and wife, three in family. A night cellar in Banaster Street for all the vagabonds in the neighbourhood. No distinction between his children and them.

"J. S. and wife, four in family. Receiving. Mother in prison. Father in bad health. Mother, with the aid of her children, keeps open a cellar for receiving anything stolen by her children or others at the docks."

Nor do the numbers of juveniles in the Liverpool gaol materially decrease; we cannot expect that they should do so in such circumstances. Isolated individuals who are sent to reformatories may be saved, and may be enabled to lead an honest life instead of that of a convict, but the mass of crime remains comparatively untouched, and for ever recruited by new additions. In November, 1862, the Governor of Liverpool Gaol states in his report, that there were committed to his prison during the last year, 537 juvenile offenders —459 males, 78 females. Of these only 108 were sent to reformatories. In 1863, there were 562 committed, and only 122 sent to reformatories. As Liverpool has always taken a prominent position in the reformatory movement, and the excellent chaplain of the gaol, Rev. T. Carter, has borne an active share in it, we may anticipate still

more unsatisfactory returns from the whole country. The Rev. W. C. Osborn, Chaplain of Bath Gaol, states, in a memorial to both Houses of Parliament in 1860, that "during the last three years the number of juvenile offenders committed to prison has been 31,758 (one-sixth being females), of whom only 2,890 have been, at the expiration of their prison time, removed to reformatory schools."

Now, in making these statements, we would not be understood to advocate a practice of sending young persons to reformatory schools for trifling offences, and thus relieving parents from the responsibility of taking care of their children, and training them in the way they should go. The severance of the tie between parents and children is a very serious proceeding, which should not be resorted to, except in extreme cases, for the protection of society, and for the safety of the child. But we contend that under no circumstances, except as a preliminary to a reformatory, should a child be sent to prison; that where it appears that children have already become habitual thieves, and always on a second conviction, they should be sent to a reformatory.

But the practice of sending boys to prison for trifling offences continues in full force in large towns!

What is to become of these two "little boys," whose case is thus reported in the *Bristol Daily Post*, December 12, 1863. What can a month's imprisonment do for them?

"*Candidates for a Reformatory.*—Two little boys were charged with stealing a piece of rope, value 1*s.* 6*d.*, from a ship in Bathurst Basin, the property of G——— P———. The victims carried away the rope, and offered it for sale at the shop of Mr. Farnsworth, marine store dealer; and it appeared from the statements of P. S. Hamilton, that, although young in years, they were adroit thieves. They were sentenced to a month's hard labour."

The reason is not stated why these urchin thieves were not sent to a reformatory. The facts of the case prove that they had not proper parental control and care. A month's imprisonment cannot undo the effects of a long period of lawless liberty. These boys are most certainly on the way to become "convicts." Such cases are not uncommon. In the same paper, February 6, 1863, we find a similar one, though here the boys have already proved that the imprisonment produced no reforming effect upon them.

"*Quay Rangers in Trouble.*—Three boys, named J———, P———, and C———, were charged with having a quantity of rope and timber in their possession, supposed to be stolen. The prisoners were stopped by P. C. 186, with the rope and a piece of timber near the Sea Banks, and there was little doubt that it had been stolen from a raft, the property of Messrs. Barnes, timber merchants. The prisoners, who had been previously committed, were each sentenced to a month's hard labour."

In the Bristol weekly papers (*Times* and *Mercury*) of March 5, 1864, we find the following cases of imprisonment of boys on consecutive days:—

"*Monday.*—Reuben D———, a boy, was charged with embezzling the moneys of his master, Mr. H———, dairyman, Clifton. Two cases were proved in

which he had misappropriated money he had received, and he was committed for trial.

"John H———, and William B———, a couple of the disorderly lads who delight in obstructing the thoroughfares, and annoying females on Sunday evenings, were fined 40*s.* and costs, or a month's imprisonment with hard labour.

"*Tuesday.*—Thomas F———, a lad, residing at St. George's, Gloucestershire, charged with stealing a pair of worsted stockings, value 1*s.*, the property of Robert C———, 24, West Street, St. Phillip's, was committed for twenty-one days' imprisonment.

"*Wednesday.*—David T———, and Joseph T———, two boys, for stealing a cheese, from a shop in Thomas Street, were committed for two months' hard labour each.

"*Thursday.*—The two boys, P——— and B———, who had been remanded for stealing cigars, value 5*s.*, the property of John S———, who keeps a shop in Maudlin Street, were again brought up. It appeared that the cigars had been taken from two glass cases, and since the lads were in custody 12*s.* worth of cigars had been missed. The magistrates discharged P———, as they thought that he might have been induced to assist in the robbery by his companion, whom they sentenced to a month's hard labour.

"Three boys, named W———, G———, and R———, were charged with throwing stones, and damaging the premises of Mr. T——— of Bedminster. The prisoners had broken some twelve tiles on the roof of Mr. T———'s house, and they were each fined 2*s.* and costs, or three days' imprisonment."

The natural consequence of the system of juvenile imprisonment is that candidates are prepared for the convict prisons, where the expense to the country is about £40 per annum for each inmate, instead of less than £20 in a reformatory, when age renders a change of life more possible. As an illustration of this we find that at the Bristol Quarter Sessions of July last, two brothers, aged respectively 24 and 25 years, were sentenced to four years' penal servitude. The younger, Charles, had commenced his career with one month, at 9 years of age; progressing through three other imprisonments. The elder brother had commenced later, at 13. How much would have been saved to the country had these two youths been early arrested in their career.

That it was the intention of the legislature to check the imprisonment of children, and gradually lead to its discontinuance, is proved by the great anxiety shown by the promoters of the Industrial Schools' Act, which followed so soon after the Reformatory Schools' Act, that the children committed to these should not have the stigma of the gaol attached to them, even during a remand or temporary delay in finding a school. This is still more clearly evidenced in the alterations in that Act, made by a subsequent one in 1861. In this it is provided that in any breach of the law, if the child is under 12, he may be sent to an industrial school, and thus being regarded as having acted "sans discernement," and, as not coming under the condition of "*capax doli*," according to the common law of England. Still further to discourage the practice of sending children to prison, it is also provided that no child shall be sentenced to an industrial school who has already been sent to gaol. By a vigorous working, therefore, of this Act, most of the cases alluded to might have been preserved from swelling the criminal class of

the community, and even the reformatories be gradually diminished in numbers. The boy who is the subject of the following paragraph had been frequently during the last year before the bench for petty delinquencies, and as the companion of thieves; he had a widowed and bed-ridden mother who could not control him, and no private efforts had been successful in keeping him at school. But he was not sent to an industrial school; in the spring he was committed for three months to gaol; his future character was then stamped on him, and nothing now remains but the greater expense both to the Government and to the magistrates of sending him to a reformatory, if he is to escape a convict prison.

"*Felony in Thomas Street.*—A boy, 13 years of age, named M———, was charged with stealing a coat, value 5*s.*, the property of Charles T———. The complainant had left his coat in a cart in Mr. B———'s yard, Thomas Street, and the prisoner was seen by a lad named B——— to take the coat and run off with it in the direction of Bristol Bridge. Three other urchins were in company with the accused, and he, in his defence, alleged that they induced him to carry off the garment. B——— said that he had before detected the prisoner in the act of stealing, and he was then trying to purloin a rope from a pair of trucks. The accused is an orphan, and the bench sentenced him to twenty-one days' hard labour, and at the expiration of that time to go to Kingswood Reformatory for three years."—Aug. 27, 1864, *Bristol Post.*

And this boy has already companions who have led him, or whom he has tempted into crime. They are at large, ready to lead on some one else, or to fall into the hands of the next bad boy, who lures them into his snare.

What then remains for the government to do in order to give full effect to present enactments, and to arrest the progress of juvenile crime?

The experience of the last ten years has proved that it cannot be expected from magistrates, when children are brought before them, to weigh all the varied arguments which may be adduced respecting their disposal. There can be no general system adopted without legal enactments. Some magistrates may be disposed too readily to send children to reformatory and industrial schools; others may not have attended to the subject, and be too unwilling to do so. It is a short and ready way to send a boy to prison, and this is therefore often done without consideration of the future consequences. The next time he appears before the bench the boy receives another short sentence, and thus the same course is repeated which has so long been deprecated; he may not be remembered, and other magistrates may be sitting.

At the present time it is always in the power of magistrates to deliver over children to their parents for chastisement, or to caution and discharge them. A child may also be remanded for further consideration of his case, and examination of his circumstances. If he has been guilty of some misdemeanor which indeed requires correction, but which does not imply serious wickedness, let him be handed over, as would be the case in the higher classes, to parental chastisement, the father being warned that a repetition of such mis-

demeanor, or continued neglect of his child, will be followed with serious consequences. If the child has been previously convicted, or is proved to be habitually in a state of incipient crime or transgression, coming under the provisions of the Industrial Schools' Act, let him be sentenced to one, the parent being compelled to pay the utmost his means will allow, towards his maintenance. The child thereby will have no taint of crime affixed to him, and after good training of a few years will probably come out a hard-working boy, easily finding employment. Should the case be still more serious, the reformatories can receive him. This, indeed, involved a previous imprisonment, but being followed by the school, the character obtained from that, will decide his future prospects in life. The expense of the reformatory would be far less to the Government than a continued career of crime, terminating in penal servitude.

Let, then, the Government be memorialised to pass a short Act, simply declaring it unlawful any longer to imprison young persons under the age of fourteen, except preparatory to a reformatory. The passing of such an Act would place children in their true and just position, as those who are to be cared for, protected, and controlled. The responsibility of the child would be directly thrown on the parents, on whom the duty really devolves. In default of these, or in case of their not fulfilling their duty, the charge would fall on society, to whom the child has a right to look for protection.

Such a law would relieve the magistrates from a frequent painful duty, and would thus free the rising generation from a stain which they at present receive owing to the fault of others; it would also enable the benevolent intentions of the legislature to be fulfilled, by the Christian men and women who willingly undertake the charge confided to them of striving to save these moral orphans.

Reformatory and Industrial Schools in Yorkshire. By the Rev. I. Fish, M.A., *Castle Howard Reformatory.*

There are in Yorkshire seven reformatories for the reception of youthful criminals under the statute 17 & 18 Vict. c. 86. Four are for boys, and three for girls. One for boys and one for girls are for Roman Catholic children. The number which the whole are capable of containing is, boys, 463; girls, 128; distributed thus—

	Boys.		Girls.
Calder Farm	116	Wakefield	25
Castle Howard	75	Doncaster	50
Adel	60	Sheffield (Roman Catholic) ...	53
Market Weighton (R. Catholic)	212		
Total	463	Total	128

The number under detention in the end of August last was, boys 423, exclusive of 58 out on licence, and girls 122.

The number of youthful offenders, committed to prison in Yorkshire in the year ended September 29, 1863, was—

Boys	495
Girls	84
Total	579

The average number committed during the three years, 1861, 1862, and 1863, was—

Boys	479
Girls	93
Total	572

For what proportion of these commitments provision ought to be made in reformatories opinions are not yet agreed. I am disposed to think that of boys about forty per cent., or two-fifths of those committed to prison, is a sufficient proportion to be sent to a reformatory; in other words, that a short imprisonment, or other brief but sharp punishment, is sufficient to deter about sixty per cent. from a repetition of criminal acts, and so far to reform them.

My experience teaches me that the best average term of detention within a reformatory is, for boys, about three years. I say within the reformatory, because I think the sentence should be for a longer period than three years, in order to allow of the beneficial influence of a licence to reside without the reformatory for some time before the sentence expires.

Supposing the average annual number of committals to continue at the present figure, and my view of the number to be sent and the term for which they should be detained be correct, there would appear to be very nearly, if not quite as much, reformatory accommodation for boys as Yorkshire requires.

The case of the girls is very different. I am inclined to think that every girl committed to prison, whose age, &c., is suitable, should be sent to a reformatory. The girl offender is almost certain to be a worse child than the boy, and is likely to be much more in need of the training of a reformatory. I do not know what is found by the managers of girls' schools to be the best term of detention within the reformatory, but if three years, then there should be provision for three times the number of the annual commitments, or 279, whereas the present actual accommodation is only 128. The Catholic girls' reformatory at Sheffield is now in course of enlargement to receive 100, or forty-seven more than its present number, which will bring the provision up to 175, leaving a want of reformatory accommodation for girls in the county of upwards of 100. Even if a considerable reduction from my estimate of the provision required be made, I think there will remain a deficiency which I would earnestly commend to the consideration of the philanthropy of the county.

It is, of course well known that reformatories are to some extent supported by voluntary contributions; but it may not be so generally known that contributions from the local rates are now made in their

aid over the whole area of this county. The West Riding and the Borough of Leeds contribute at the rate of 1*s.* 6*d.* per head per week. The North and East Ridings and all the boroughs within them, together with the City of York, contribute 1*s.* per head per week.

The Yorkshire reformatories have all received high encomiums from H.M. Inspector, and the ascertained results of their operations are satisfactory. Of 197 boys discharged from them during three years ended December 31, 1863, only 30, or a trifle over 15 per cent. have been reconvicted of crime. Of girls discharged during the same period only 2 out of 26 have been reconvicted.

So far as I know, no attempt has as yet been made to secure uniformity of action between these several institutions, nor do I know that that would be desirable; but I should be glad, as the superintendent of one of them, to have some more frequent opportunities of communication with the managers of the other schools, such as would be afforded by an occasional conference of the whole ; and I cannot but think that the work in which we are engaged and the general reformatory interest might be benefited thereby. I, of course, only speak for myself when I add that there are three chief difficulties in the way of reformatory management, viz., the unsatisfactory state of the law with regard to the punishment of offences committed in a reformatory, the present restriction on the use of the licence, and the entire absence of provision for those found to be incorrigible by the ordinary discipline of the reformatory. The mention of these opprobria of the reformatory system may seem unnecessary in this Section, to many of whose frequenters they have unfortunately been long familiar ; my only excuse is that they still remain, and that to be always silent is not the way to remove them. I am persuaded that united and energetic action on the part of the managers would soon make them things only to be remembered and not endured.

There are, I believe, only four schools in Yorkshire certified under the Industrial Schools' Act, viz., at York, Hull, Leeds, and Bradford. I have only seen the York and Hull Schools, neither of which, as yet, quite reaches the efficiency desired by the promoters of the Act, although both are in a fair way of improvement. The Hull school is about to be greatly enlarged, more room being its greatest desideratum.

I have no means of estimating the number of children whom it would be desirable to place in industrial schools. In view of the number of vagrant children in the rural districts, and the ragged children in towns, I imagine it to be pretty large. I have been struck by the frequent applications made to me, by persons desirous of rescuing such children, for advice as to the best manner of treating them. There can be no doubt that from these children the criminal class is mainly recruited. It would be a great public benefit if they were placed and educated in industrial schools. If this work is to be done several schools besides those mentioned will be needed. There is at present considerable apathy on the subject, owing, not altogether to indifference on the part of benevolent per-

sons upon whom the organisation and management of such schools would fall, nor to any unwillingness on the part of magistrates to use the powers of the Act, but partly to the circumstance that the provisions of the Act are purely tentative, and its operation limited to so short a period.

JURISPRUDENCE AND THE AMENDMENT OF THE LAW.

President.

THE RIGHT HON. SIR JAMES P. WILDE,
Judge of Her Majesty's Court of Probate.

Vice-Presidents.

SIR WALTER CROFTON, C.B.
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Local Secretaries.

WILLIAM GRAY, ESQ.
T. S. NOBLE, ESQ.
JOSEPH WILKINSON, ESQ.

In this Department are discussed the Science of Jurisprudence and the Amendment of the Law; including the Principles of Law and Legislation, Comparative Jurisprudence, International Law, Municipal Civil Law, and Criminal Law, together with the treatment of Criminals.

SUMMARY OF PROCEEDINGS.

THE following special questions were discussed in the Department:

1.—Are the Laws of Real Property in the Three Parts of the United Kingdom respectively, in their substance and tendency, suited to the present Condition of Society? and if not, how should they be improved?

2.—On what Principle should the Law deal with Questions of Responsibility and Mental Competence in Civil and Criminal Cases respectively?

3.—Whether any, and what, Ameliorations can be introduced into the Institution and Conduct of Criminal Prosecutions?

A Section of the Department dealt with the Treatment of Criminals and the Reformatory System, and discussed the following special question:

4.—Can a uniform system of Penal Discipline be established in County Gaols? and if so, in what way?

Another Section dealt with the subject of General Average, and discussed the Draft of a Bill submitted by the International General Average Committee.

In addition to the papers printed in the foregoing pages, the following were read in the Department:—

"On the History of Real Property Law." By Charles Neate, M.P.

"On the Real Property Law of Scotland." By Robert Stuart, Barrister-at-Law.

"A Proposal for a new Court of Probate, Matrimonial, Maritime and Ecclesiastical Jurisdiction." By George W. Hastings, Barrister-at-Law.

"On the Importance of Upholding and Extending the Jurisdiction of Local Courts of Record." By Gainsford Bruce, Barrister-at-Law.

"Brief Remarks on the Punishment of Death." By H. N. Nissen, Sheriff of London.

"The present Law of Banns of Marriage, with Suggestions for its Amendment." By Rev. S. C. Wilks.

"On the Probate and Succession Duty levied on property left under general power of appointment." By Rev. Nash Stephenson, M.A.

"Convicts without the Prison." By James P. Organ.

"The Supervision of Licensed Convicts." By C. P. Measor.

"The Various Modes of Criminal Punishment resorted to at different periods, and their influence on Civilisation." By George Harris, Registrar of the Court of Bankruptcy.

"On efforts to prevent Crime." By A. O. Charles.

"The Report on Reformatory Schools." By C. H. Bracebridge.

"Suggestions for the Management of Reformatories for Girls." By Christian Nicoll.

THE LAWS OF REAL PROPERTY.*

Are the Laws of Real Property in the Three Parts of the United Kingdom respectively, in their substance and tendency, suited to the present condition of Society? and, if not, how should they be improved?

In addition to the papers on this question by Professor Thorold Rogers, Mr. Danson, and Mr. Urlin, printed at pp. 117, 129, 143.

Mr. NEATE read a paper on the "History of the Law of Entail and Strict Settlement," of which the purport was to show that the present law was not so much a remnant of feudal fetters, as it was an abridgment of feudal liberties. Such restrictions upon alienation as existed in this country under the feudal system, previous to the statute *De Donis*, were entirely for the benefit of the lord, and not for the protection of the issue, and were not in fact enforced, except as against those who held directly from the Crown, as is already shown by the language of the statute *Quia Emptores*, 18 Ed. I., which is sometimes erroneously referred to as conferring the right of alienation, whereas in truth it only subjected that right to a new condition.

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* See *Transactions*, 1857, 80-91; 1858, 131; 1859, 184-202; 1860, 217-238; 1861, 147-185, 243; 1862, 158, 219-225; 1863, 180, 249.

The statute *De Donis*, 13 Ed. I., did, it is true, interpose, for the first time, a restriction expressly for the benefit of the issue; but the history of the previous attempts to confine the right of succession to the lineal descendants of the first taker, lead to the conclusion that the primary object, even of the statute *De Donis*, was the protection of the lord's right of escheat, or reversion, as it came to be called after the statute. Whatever the reason of the statute, its importance and effect have been greatly exaggerated. We are led to suppose from the language of Blackstone that the great bulk of the landed property which was held by the barons and knights (the nobility and gentry of that day) was subjected to the fetters of entail, but a little reference to the law of that day will show that this could not have been the case. In the first place, the simplicity of the common law did not admit of a father settling land upon his son (or upon anyone), in such a way as to reserve to himself the enjoyment for life. Whatever he gave he had to give out and out, and though no doubt fathers did often do this with a part of their estate, as a provision on marriage, they were not likely to do it with the greater part; and it is abundantly clear that the larger portion of the property of the country continued to be alienable, from the frequency of gifts in mortmain, after the statute *De Donis*, and still more from the general practice of conveying land to uses; and, though it must be admitted that the use itself might have been entailed, this does not appear to have been very generally done, for the statute of uses speaks of the power of making wills as the most prevalent evil arising from uses, and that power would not have existed in the case of an entail. The law of entail, whatever the extent of its application, remained in full force for about 200 years, when it was virtually declared by the judges in Taltarem's case, that an entail could be barred by a recovery—that is, a judgment in a fictitious action to which the tenant in tail was made a party—but the little stir which this change of the law appears to have made at the time is a further proof of the absence of any general system of entail. The legislature appears to have acquiesced without a struggle in this manifest invasion of the old statute *De Donis* by legal contrivance, and not long afterwards they themselves by a new statute of their own, carried to a greater length the facility of barring entails; that is, by the statute of fines, first passed in the reign of Richard III. for the purpose apparently of securing doubtful titles, and afterwards extended, in the time of Henry VIII., to the barring of the issue in tail. It is to be remarked that its effect is confined to the issue, which makes the statute of all the more significance, as a proof how little the legislature had then adopted, that which has become the principle of our modern law, the protection of the son against the father. For some time after Edward IV., and indeed down to the times of Charles II. a greater freedom of alienation appears to have prevailed than had existed before, or has existed since; and the effect of this freedom—coupled with other causes—was the growth of that class, or classes, of gentry and yeomanry which withstood the attempted

tyranny of Charles I. Since that time the fetters of entail have been generally re-imposed in a less binding form in the shape of family settlement, by which the estate tail, being split into two parts —namely, a life estate in the father, with a remainder in tail to the eldest son—could only be barred, at least during the lifetime of the father, by his concurrence with the son in a common recovery, or in the mode of assurance now substituted for it. But if the son survives the father without concurring in the settlement of the estate, he becomes tenant in tail, on possession, that is, absolute owner, subject only to the necessity of signing a special form of deed to exercise his right. This is commonly prevented by the re-settlement of the estate on the marriage of the son in the lifetime of his father, by which the estate of the son is cut down to an estate for life, and the estate tail is put off to the next generation. What is called the rule of perpetuation does not admit of any greater restriction upon the right of alienation than is provided by this mode of settlement; but even this modified restriction is the result of the different contrivances of heirship—ingeniously devised in opposition, as Mr. Neate attempted to show, to the acknowledged principles of the law, and the apparent intention of the legislature.

Mr. ROBERT STUART read a paper on the laws of Scotland as affecting the sale of land. The law of purchase and sale of land in that country was no further advanced now than was that of England in 1635. It was true that an Act was passed in 1848 with the view of remedying the existing evil, but that Act was but a permissive invasion of 1685. He contended generally for the emancipation of land from feudal tenure, and for the assimilation of the Scottish and English laws, especially with regard to the acquisition of title in Scotland similar to that prevailing in England.

DISCUSSION.

Mr. JOHN HODGKIN: I will first advert to one or two points of a practical character in Mr. Urlin's paper. The views expressed by him as to the desirableness of reducing all the tenures eventually to that of freehold or fee-simple, as to the limitation of the rule with regard to attestation of wills, and as to the effect of subsequent marriage in the revocation of any will previously executed, appear to me to be well worthy of consideration. With regard to the limitation of the right of bringing actions to reduce wills, I am not prepared to go the length of further reducing the gross period. There may indeed be some advantage in reducing the period for the accrual of successive rights, but I think the gross period of forty years—seeing the necessity of it is so mainly dependent on the probable duration of human life—could not safely be shortened. I think the rule *Vigilantibus non dormientibus jura subveniunt*, might be still further carried out in regard to this subject. The suggestions for the conversion of copyhold into freehold are already in some degree met by the operation of the Enfranchisement Acts, although it may be desirable that the process should be still further accelerated; and in regard to that matter the remarks of our able and lamented colleague, Mr. Senior, were particularly appropriate as describing the thing in mathematical formula, showing that the parts are not equal to the whole, and that what the one party lost the other did not gain. I do not concur in the suggestion that the law should provide for the posthumous child. However inviting that idea may be to the affection of parents, I think it a dangerous

proposal; and that the remedy is worse than the disease. The notices which we have had of the supposed evils of the English system relate partly, perhaps principally, to the unmerchantable character of the land, and to the fact that it is not within reach of acquisition by the poor man. Now on this point some of the papers, especially that of the Professor of Political Economy at Oxford, treated the matter too much in the way of an appeal to class feeling. I believe it would be found that, even if we swept away the laws of entail and primogeniture, and if we removed many of those obstacles and expenses connected with the transfer of land, still the poor man would not and could not be an acquirer of land to any great extent. There is at least one strong reason in support of this view, that if we removed all those obstructions in the way of simplicity, security, and cheapness of title, we should simply raise the market-price of land. With the increase in the price of land, we should of course increase the one great difficulty in the way of the poor man's acquisition of it, namely that it is the least profitable of all investments. However abundant land may be in the colonies, in England it is necessarily dear, for it is limited in extent, and those who desire it and can buy it are constantly increasing in number. There may be exceptional cases through the operation of the allotment system, and building or land societies, but as a rule investment in land is unremunerative and therefore aristocratic, a luxury in which no one can indulge unless he has ample means to spare. That, however, does not render it unimportant to endeavour to give the lower and middle classes every reasonable opportunity of making investments in land should they desire it; and that necessitates our consideration of the laws of entail and primogeniture, as well as of the technical obstructions connected with titles. With regard to the law of entail we have had some rather new views expressed as to the operation of the statutes *De donis* and *Quia emptores*. But notwithstanding all we have heard, it is clear to me that it is not, strictly speaking, the law of entail itself, but the law of settlement, and still more the class feelings of the upper aristocracy, that are the main causes of the difficulty. I am not prepared to say that, with our mixed constitution, and with the importance of permanence in the holding of the land, we ought either to sweep away the law of entail or the law of settlement, but it is possible that the law of land should in that respect be placed on the same footing as the law of personalty. This middle course might not be incompatible with the mixed necessities of the case. There was one view expressed with which I could not at all sympathise, that the settling power, and especially the testamentary power, should only go to the extent of giving absolute interests. But would any one consent that that proposal made as to the land should apply to money? Would a successful trader, who had acquired a large property, consent that his testamentary power should be confined to an absolute interest, that if he gave anything to his widow it must be an absolute interest, and that he could not give a life interest? Yet this was the purport of the suggestion made. I cannot conceive of any arrangement that would give to the owners of property less power of regulating the settlement of it by the exigencies of their families than that which they already possess, and which no one purposes to take from them with regard to money, which would meet with the approval either of the conscience or intellect of the country. With regard to the law of primogeniture, I should not at all be prepared to infringe upon it. I think that the entirely free disposition by testament or otherwise is to a fair extent a practical guard against it, but I am nevertheless aware of the force of the remark that if the legislature were to abolish it, it would give a character to the feeling of men making a final disposition of their property. I think that would act in a right direction, but it would be purchased at too dear a price in the present condition of the country. I am aware of the very different feeling that prevails in France, chiefly by reason of the intolerable wrongs inflicted on the country by the old aristocracy. I have had opportunity of conversing with eminent jurists, and also with men of property in France, and I find the feeling there is directly in the teeth of the feeling here. In a conversation I had some years ago with a large proprietor in France, he said that France would bear the destruction of her political liberty more readily than she would bear the infraction of that equality which they say is essential to justice. And even with regard to the small portion over which the French law gives the testator the power of disposal, the feeling is so strong for equality

that, if a father were to give the *quotite disposibile* to his eldest son in order to make his portion larger, it would be thought that he had sinned in his grave, and the wife, having almost always her separate property, would try to hoard up her resources so that her *quotite disposibile* should be given to the other children.

Mr. JOSEPH FISHER: I believe the feudal system was properly a holding of the land by the king for the purposes of the state. The monarch was allowed to possess the right of disposal of landed property, which he gave to those who accompanied him in his wars, as the rewards of their services. The property in land, as it passed to the feudal owner, was burdened with the support of the armies of the state, and the land was bestowed upon the original owner and held by him as a benefice. It was not originally descendable from father to son, but, at the death of the holder, it reverted to the king to be disposed of by him. The fees given by the Crown to the original lords were not disposable by will, and could not be seized by creditors. Consequently the holder had purely a life-interest. The heir, whoever he was, did not possess until investiture took place, and a year's rent became the property of the Crown under the title of primary seisin. That was the law up to Taltarum's case, and so far from the Crown being against the law, as decided in that case, the Crown influenced the judges so as to destroy the power of the nobility. It was not until land came to be regarded as the individual property of the owner, that a devise was granted and questions of descent arose. One of the papers says that every man should get the fruit of his labour. As a general maxim that is correct, but when you come to land, does it apply? How then does the heir of the land become entitled to the property erected upon it to the detriment of the man who made the outlay? Almost all our writers have held that the possession of land is a trust to be exercised for the benefit of the people; that the possessor came into it with the free consent of the community, and got a general retainer to use that wealth for the public good. Now I believe if that principle were always carried out, such questions as we are discussing to-day would never arise. Mr. Danson drew a good distinction between property in land and in houses, but he forgot the idea that property in houses was the representative of labour. Take Coleridge's idea—it was this: The land itself never was nor could be property, for property means the result of man's labour. God gave the land of the country to the people of the country, that is the principle of the gift; the government of the country distributed that land to the people in different proportions, that comes within the process of law. But what is law? Law is the expression of the will of the people, and it is only by expression of that will that land is held. Mr. Mill says, whenever the possession of land is inexpedient, it is unjust. Now if the possessor of the land refuses to give a lease, or if he couples it with conditions to the effect that the fertility of the soil should not be developed —all these operate against the welfare of society. If the tenant lays out his capital, which is merely accumulated labour, on the land, what reason is there that he should not receive compensation for it? That question underlies the question of lease, for every lease has in it that condition. But is there any law, natural or divine, to warrant the assumption that one man is entitled to labour for another without any compensation? Mr. Danson lays it down that the law gives to a man the fruits of his labour, but is that giving a man the fruit of his labour that he cannot get the land on any other terms but that the fruit of his labour shall revert to another? There was a question raised as to the power of the poor man to purchase land. In France the capitalist cannot buy against the poor man, and there are 4,000 men working on their own properties of not more than eight acres. And are the labouring classes here less able to purchase land? And when you see that the cost of cereal produce and of animal produce is increasing in a more rapid ratio than the population, and that the growth of corn and the production of meat are decreasing, you may then say, why is it that the English system is not equal to the French? It may, I think, be laid down as a maxim that as you consolidate farms and increase the size of holdings, so surely do you diminish production. An extraordinary instance of this is to be found in the case of Ireland, which in 1841 was an exporting country with 8¼ millions of population, whereas now, with the population reduced to 5¼ millions, she is not growing food enough for herself, and is an importing country. You may say that there is an increase in exports to meet the imports of grain, but the exports of meat and

butter were not so great in 1862 as in 1841. The fact is that as you consolidate farms you diminish the product; and, if you want the theory of the subject, you find it in Mill, who says, with regard to the land, that you must look upon it in two capacities, first as an agent for producing food, and second as a means of making profit for those investing in it. Now it sometimes happens that the one principle won't comport with the other. It will not pay the large farmer to give the land the amount of labour which is necessary to secure that return which a small farmer would draw from it.

Mr. WESTLAKE: With regard to the remark of the last speaker, that the land is going out of cultivation, I have no experience in regard to Ireland, but in regard to England I can testify that the land is not going out of use. But there is a change in its destination proceeding, and there is an obvious reason for it both in England and Ireland. The increasing population requires increased supplies both of corn and animal food; corn can be more conveniently brought from a distance, and therefore, as the population increases, we must go on increasing in the import of corn and increasing in raising animal food at home. With regard to Professor Rogers' paper, I may observe that at present the power of settling real property is very much the same as settling personal property. In consequence of the difference in the nature of the two kinds of property, there is a little difference in the terms and expressions, but practically the power of settling is the same in both cases. You may create successive interests in land, but the series must finish with one who came into life within the lives of those now living or within twenty-one years afterwards. Now that is about the smallest power which is compatible with a marriage settlement at all; for in settling a property in contemplation of marriage, you must give an interest in it to one who at the time of the settlement is yet unborn, but who must come into being, so as to have the disposal of the property within the time named. When Mr. Bright wished to give point to his views on this subject, he felt himself obliged to say that the power of creating successive interests should be limited by the condition that the persons in whose favour they are created should be living at the time these interests were created, but that a special exception should be made in the case of marriage settlements; for Mr. Bright is far too clear-sighted a man to imagine it possible or desirable that any hindrance should be put in the way of marriage settlements. Now see how small an alteration that would be. It would simply come to this, that what may now be done either by marriage settlement or by will would be done by marriage settlement only, an alteration hardly worth making. So far as I understand, Professor Roger's paper apparently goes further and certainly seems to recommend that the creation of successive interests in land should be absolutely confined to their creation in favour of persons in existence, without that exception which Mr. Bright seems to feel the necessity of making. I feel some difficulty in imputing to him so extraordinary a doctrine seeing he has not spoken out decidedly in regard to it; but if he does desire this he advocates something which would not be entertained by any practical man, and would create an oppressive and invidious distinction between land and personal property. I may observe that various of the arguments used with regard to land have no special or exclusive reference to that particular kind of property, but would equally apply to others. For instance, it is said that a person having a limited interest in the land has not the same interest in managing it energetically which the absolute owner of it has. Is it not also true that if shares in a company are put in settlement so that one person has a life interest in them and another person not born has the ultimate interest in them, the holder of these shares for life has not the same inducement to take an energetic part in the affairs of the company as the absolute holder would have? And there are other kinds of property to which similar principles would apply. Therefore, having regard to the impossibility of establishing unequal rules, and the shock which our feelings of justice would receive by imposing conditions on the settlement of land which do not apply to other property, and looking to the connection which the two kinds of property have with the interests of the country, I do not see why the disposal of the one should be limited more than the other.

Dr. J. W. SMITH: The real question is, Are the laws such as to prevent the land being bought by the man who is ready to give the highest price for it and make

the best use of it? I cannot agree that if the land were more marketable it would tend to increase the present monopoly of land, and bring it to a greater extent into the hands of the richest holders. It would tend to bring it into the hands of those who would pay the highest price, and these men necessarily would not be the richest holders, for any man who goes about the country with his eyes open will see that the large proprietor cannot extract that value from the soil that the small proprietor can and does where he has the chance. I think it was stated in one of the papers that it had been rather asserted than proved that small holdings were far more valuable in proportion to their extent than large. It is quite true it has been rather asserted than proved, because it has been a matter of common observation. But it has been asserted by those who have had most abundant means for that observation in several countries, and by those who have had no communication with each other. It is the case in France, where we are told that those who have only eight acres are properly the wealthiest proprietors, and who give a larger proportion of their means to government than any other body of proprietors when the government requires a loan. Mr. Tupper, a gentleman who resides in Jersey or Guernsey, and who adds to his legal knowledge a knowledge of the country, has stated that the value of property per annum is far greater in Jersey, where the holdings do not exceed five acres, than it proportionally is in any other part of the country. Look to the people of Scotland. Take the case of Fifeshire. What is the object of a man when he has saved a small quantity of money by working at the plough? It is to get a farm of from four to seven acres. Look at these farms as you go through the country. He pays from £4 to £7 the acre for that land, a rent which no larger or smaller proprietor can obtain for his land in England. By means of savings from what he rears on that land, he is enabled to purchase a larger holding, but I do not think that even the proprietor himself would say that, farming a larger holding, he is able to get a larger proportion of wealth than he did from the smaller. With one large holding of 500 acres you support but one family, that of the farmer to whom it is let. But divide that into five parts and you support in a state of comfort and decency, as members of the middle class, five families. I imagine that what you require to bring that land fairly into the market is three things. First, a good example to be set by the legislature by carrying out that measure which is advocated by Mr. Locke King, the assimilation of the devolution of property on intestacy in the case of real property to that of personal property, so that if a man dies without saying to which of his children it is to go, it will go among them equally, like his money. That example would be soon followed, as the example at present set has been followed to an extent so great and injurious. The next thing we require, is the registration of all titles to land. It is said that it is the fault of the landowners that they do not avail themselves of the present facilities; but these facilities are only extended to one title in a thousand: they are only extended to the owner of a fee-simple, or to the owner who has what is equivalent to a fee-simple, or what may be turned into one. But perhaps that which would be felt as the most immediate kind of relief would be the change in the mode of conveyancing and in the scale of legal remuneration. At present, if you go to a lawyer and say, "I have got this piece of land, which is only worth £100, and I want to sell it. Would you conduct the matter and only charge me so much, and not send in a bill charging me twice the value of the property"—that is a bargain which is binding on you but not on him. Or if he performs his contract faithfully he has no means of compelling you to pay, and therefore he will not enter into that bargain. But he leaves the matter open, and makes a bargain to charge a fair remuneration, and that fair remuneration often takes away, to a great extent, from the value of the thing sold. He may make a bargain with you to do it for a certain sum, and he cannot compel you to pay more, but the bargain is not a binding bargain, and there is no way of enforcing it. If he ask £20 and you think that an unreasonable sum, you may require the bill to be reduced to £5, but it is not likely the lawyer will go into any bargain like that. He will charge you, he says, at the legal rate, and his bill is drawn according to a fixed standard, and according to that standard he makes the transaction highly advantageous to himself but highly injurious to the sale of property.

Dr. WADDILOVE: It appears to me that the argument has gone somewhat beyond the question which is before us. Most of the papers have rather aimed at pointing out a remedy than showing whether the laws of real property as they stand are suited to the present condition of society. Now in my view of the case, I think the laws of real property do tend very much to the benefit of society. I cannot but think that, constituted as this country is, and accustomed as we are to those privileges, and attached as we are to the laws of primogeniture, it seems to me a very reasonable law; and it seems to me a very unsound argument that because the law has been altered in France that therefore it should be altered here. It has been said that the lesser proprietors of France have prospered very much under the system of subdivision of property. It may be so, but I do not think we can ever compare the small landholders of France with the small landowners of England. We know that taxation is much heavier here, that labour is much dearer here, and that they subsist more hardly—making a meal of a piece of bread and a melon—than we do. I think that one of the effects of our law, namely its tendency to promote large farms, has a most beneficial effect on agriculture. Take the county of Norfolk where there are farms of about 1,000 acres, there the rich farmers are doing remarkably well, and the labourers are getting good wages. Go to Devon or Cornwall where sometimes you will find little holdings not above the size of this room, and you find the people living on the verge of poverty. Mr. Fisher talked about Ireland being impoverished by the people being deported elsewhere. Now the great evil of Ireland is this system of small holdings. Every man wants to hold a petty bit of land, that he may go about with his hands in his pockets as a landed proprietor, and it is that which tends to impoverish the Irish race. In reference to the case of the gentleman who made a will in contemplation of marriage and died before making another, in consequence of which marriage the will was null, I would observe that the case might have been the other way; it might have been that the will was not made in contemplation of marriage, and if he died without revocation his wife would have been wholly unprovided for. You must therefore take the case both ways, and I think it is much better for the general welfare that the law should peremptorily revoke a will made before marriage.

Mr. HOLTBY: I was startled with the observation that it was necessary to go to the legislature to ask them what covenants should be inserted in a lease. Surely the time has not arrived when it is necessary to ask what English gentlemen are to do with their property, how they are to manage it, to whom they are to let it, and what restrictions should be put upon them; surely that would be going on a retrograde principle. I always understood that a man might do what he liked with his own, and that he was free to enter into any contract in regard to it; but according to this view, he is to be regarded as a person incapable of managing his own affairs, and is to go to the legislature and ask their assistance. There is another subject to which I would briefly allude, namely, the enfranchisement of copyholds. Now that is done in this county in a very easy way. You have only to go to the steward and ask him to make a calculation on the rental what amount he is entitled to for the enfranchisement, and the cost of that is of a trifling character. Then as to the cost of conveyance to the poor man, it is very trifling. The poor man never buys his land under a family settlement, where the abstract is long and complicated. They are generally small plots of ground which he buys, and which he finds convenient for the keep of a cow or a horse; and the expense of his conveyance is of a trifling character. I venture to say that in ninety-nine cases out of a hundred, where the purchase is £500, the cost of the conveyance is not more than £4 or £5, and the higher the amount goes the less would be the proportionate cost of conveyance.

Mr. J. H. RAPER: It is very desirable we should converge our thoughts in these discussions, but it has not been usual nor is it desirable to take votes. This is a department for the creation and ventilation of opinion on questions of jurisprudence, and it would be well that the discussion should not pass off pointlessly. I think there is considerable unanimity of opinion that the law requires alteration, and that as there is a law in the direction of aggrandisement in land, there should also be some means of encouraging the distribution of land.

The PRESIDENT: It has occurred to me that the tendency of the system

we have followed is to diffuse our attention. The subject appointed for discussion is in itself a wide one; yet I think some of those who have written or spoken have hardly taken sufficient care to confine themselves within the proper limits of the subject in hand, so as to make the subject a thoroughly practical one. It has been suggested that we should come to a conclusion by vote. I believe the practice of the Association has been otherwise, and I think wisely so. I believe the object we seek is simply to compare mind with mind, not to carry or enforce an opinion, but to form opinion; and the more free and unfettered the discussion is, the better for the purpose of forming opinion. The more free it is from anything like party feeling the better, and I believe that party feeling might be induced by carrying resolutions, and anything like that would tend rather to discourage than facilitate the discussion we so much desire.

CRIMINAL PROSECUTIONS.*

Whether any, and what, Ameliorations can be introduced into the Institution and Conduct of Criminal Prosecutions?

The paper on this question by Mr. Robert Stuart will be found at p. 156.

DISCUSSION.

Mr. G. Harry Palmer: I will first read a statement placed in my hands for the purpose by the Clerk of Arraigns in the Central Criminal Court in London. Mr. Hemp writes as follows:—"The absence of uniformity in the mode of conducting criminal proceedings, and the consequent absence of responsibility in those to whom the conduct of prosecutions is frequently entrusted, show the existence of a pernicious system calling for inquiry with a view to amendment. In all great crimes, committed in the jurisdiction of the Central Criminal Court, the solicitor to the treasury officiates as the prosecuting attorney; and with reference to the public departments, the solicitor attached to each department performs the duty. Thus, there is a machinery provided for metropolitan prosecutions which might be well made general and extended to all prosecutions in every county in England. To accomplish this, district agents should be appointed throughout the country, who should take the conduct of the case, from the examination before the justices to the trial, and prepare the necessary briefs and give the necessary instructions to counsel, and act generally as the attorney for the prosecution, being responsible to the Crown for the accurate performance of the duties of his office. The appointment might be either by the Home Secretary or the Lord Lieutenant of the county, and the salary fixed by the Lords Commissioners of Her Majesty's Treasury and paid by the Crown."

Now I will state very briefly how prosecutions are instituted in this country:—1st. In all great cases directly by the Crown; 2nd. In several of the departments, such as the Mint, by the department under the auspices of the Treasury; and 3rd. By individuals acting through attorneys or otherwise; and in this respect the criminal prosecutions of this country are in their very nature litigious.

The mode of prosecution by individuals ought to be the subject of very serious consideration. The great bulk of the prosecutions in London are got up by the police, acting with a low class of attorneys. They are got up under special agreements, the private prosecutors—the individuals aggrieved—being induced to employ prosecutors with a special understanding that their costs are to be allowed them. Owing to this, we have many frivolous prosecutions. Men acting with the police get up paltry charges, and a stigma of crime may be fixed upon a person entirely innocent, and who goes out of court with a verdict of "not guilty." In the City of London there are not only qualified solicitors who practise, but there are the myrmidons hanging about the court using the names of solicitors who know nothing of the cases. You have depositions very often taken carelessly by the clerk; who thinks that something ought not to be taken down and it is not taken down. The witness is then attacked about the evidence given before

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* See *Transactions*, 1861, pp. 143, 242.

the magistrate, and the deposition, thus imperfectly taken, is the only evidence by which they can test his veracity upon the trial. These depositions are very frequently handed down to counsel when the trial is about to commence, and they are often in a very imperfect state. Very often counsel see in a moment that a certain witness ought to be summoned, perhaps that a medical man has been left out, and you must manage to get the trial postponed till next morning, in order to get over the difficulty. All that business ought to have been done before the case was brought up for trial. Very frequently the trial comes on before the counsel can see the depositions. The prosecutor has allowed the case to float about till it is called on. The judge has a copy of the depositions, and he asks the counsel to take them up there and then; and there is often a failure of justice because there is no responsible officer to prepare the brief, and bring the cases into court ripe for trial. I fully concur in the recommendations of the Clerk of Arraigns of the Central Criminal Court. But there is this difficulty —whom will you appoint? It has been suggested that this important work should devolve upon the magistrate's clerk. I entirely object to that. That officer is an officer of the court, to transact its business, and to see that it is conducted in proper form; but it would be impolitic, I think, to place him in the position of a prosecutor. My learned friend Mr. Urlin will describe to you the procedure in Ireland, which has answered remarkably well. I only refer to it to say that in Ireland there are district agents responsible to the Crown through the Lieutenant of the county, and who have their deputies. The prosecutions pass through their hands; they brief counsel, and see the whole case prepared for court. Why cannot that system be applied to England?

With regard to the suggestion for the abolition of grand juries, I am not at all disposed to take up that cry. If they are useless they do no harm. We don't pay gentlemen for acting on them, and nothing comes from the state to support them. We do not see that the interests of justice are at all imperilled by having cases brought before them. The strongest argument we have heard against grand juries is, that in the metropolitan districts, where there are paid magistrates, they carry on the first inquiry so well that the second inquiry before a grand jury becomes unnecessary. I am not prepared to say that. During my short experience I have seen instances where bills were presented which showed the necessity for a grand jury. There has been a time when this tribunal has proved of the greatest service, and he would be a bold prophet who would say that such a time may not come again. We have a valuable safeguard for the liberty of the subject in that tribunal, responsible to no one, carrying on its proceedings within its own doors, and whose opinions have no ultimate force except in acquittal when a bill is thrown out. I agree with Mr. Stuart that it is a shocking thing that the columns of the daily or weekly press should be filled with matters before magistrates, which ought not to have been reported at all. But the observations of my learned friend go to this extent only, that the responsible agents of the public press ought to exercise a control over the publication of these reports. I am glad to say that in three-fourths of the daily press this rule is observed. At the same time nothing can give more satisfaction and security to the public than that the proceedings before magistrates should be open. I also agree in deprecating the verdict of "not proven." In Scotland the majority of acquittals are verdicts of that kind. What a reprehensible state of things that is. A man is presumed in law to be innocent until he is proved guilty. If he has been put on trial and not proved to be guilty, he is entitled to go out of court without imputation, and to introduce into our procedure that sort of half ethical half judicial verdict would be, I think, extremely unwise.

Mr. Avison, of Liverpool: The subject is one involving a most important principle, and I think that the time will arrive ere long when a public prosecutor will be established; but it appears to me that in the meantime the plan might be pursued which is adopted in Liverpool, and which to a certain extent provides a remedy for the evil complained of. When a person has been accused of crime in Liverpool, and has been committed to take his trial, the party who is bound over to prosecute is not the party aggrieved, but a *quasi* public prosecutor in the shape of an official employed by the corporation of Liverpool at a salary. That person conducts the case, and sees that the ends of justice are not defeated. That plan is very successful. But admirable as it is, it does not always succeed,

because there is a class of crimes which cannot always be dealt with in this way. I allude particularly to those crimes which are not against the person but against property, and it is particularly in these cases where the advantage of a public prosecutor would be felt. In cases of crimes against the person—especially in the higher classes of crime—it is seldom that the ends of justice are defeated. All parties are interested in these cases, and the prisoner, if he is guilty, generally speaking is brought to justice. But there is another class of offences in which the ends of justice are defeated; the cases of parties who are accused of having committed embezzlements, clerks who have robbed their masters. A charge is brought before a magistrate, and a remand takes place; but often, in the interval between the remand and the time fixed for the second hearing of the case it drops to the ground and nothing more is heard of it. I recollect a case which occurred in Liverpool a few months ago. A mercantile house were robbed to a very considerable extent by a clerk. They immediately applied to the police, the best detectives were employed in the case, and the man was tracked. He was caught and brought to Liverpool, where he was charged before the stipendiary magistrate with the commission of the crime. The case was remanded, and when it ought to have come on again, and the stipendiary was there to hear the case, there was no prosecutor. The magistrate was very indignant. He said what he had to say, but he was perfectly powerless in the matter. It is just there where our system fails. I would suggest this remedy; that the party, when he makes the charge, should be bound over when he makes it to prosecute the case and to give evidence in the event of the committal of the accused.

Rev. Canon Hey: I think it impossible not to see that repeated instances occur, in which men have been deprived of their liberty and put upon their trial, who not only were not guilty, but against whom there was not a clear case for the prosecution. A case of this kind happened here not long ago. A man pleaded guilty to an indictment for bigamy; when he was called up for sentence, he made a statement, and it turned out that not he but his wife had committed bigamy. He had married a woman who had married another man before, and upon the appearance of the original and true husband, who took away his wife, this man lawfully married another person. He pleaded guilty, being conscious of the fact that he had twice gone through the marriage service. Now the slightest inquiry on the part of a public prosecutor would have prevented that man from being deprived of his liberty and kept at York Castle till the truth of the matter came out. But besides the question of public prosecutors, there is a much higher one which ought to receive attention—a question to which Lord Brougham adverted in another place—namely, the indispensable necessity of appointing a Minister of Justice; a Minister of State to advise the Queen in the duty of prosecuting offenders against the law; and that no prosecution shall be pressed against any man, to the prejudice of his personal liberty, until it has received the sanction of some official of the department of that Minister of Justice. With regard to the possibility of defeating the ends of justice, I am afraid it is impossible to exonerate the grand jury from the charge of being open to that abuse. Mr. Avison has spoken on the propriety of binding over persons to prosecute; but when they are bound over, how easy it is for the prosecutor before the grand jury to give his evidence so as to cause the bill to be thrown out. Thus, a charge may be brought with the view of extorting money, and the case be compromised when it comes before the grand jury.

Mr. R. D. Urlin: I beg to explain the way in which a system of public prosecution is carried on in Ireland. There you have for each county a Crown solicitor, whose office is held for life or during good behaviour. He is not removable, and he is under no influence whatever. He is appointed by the Crown, and he holds his office almost as independently as a judge; at all events, so independently that his conduct is, in point of fact, always above suspicion. It may be supposed, that the personal standing of the solicitors who undertake the Crown prosecutions, is a matter of great importance. Now I have not the slightest hesitation in saying that the solicitors who in Ireland take the office of Crown solicitor are among the best men in their profession. The position is not inconsistent with private business. A great many of them are in Dublin, some of them are in the provinces; but all are of high standing. The smallest salary is about £400 a year

and the largest about £800. In former times there was a Crown Prosecutor for each circuit, and the emoluments were in proportion; but of late it was thought much better to appoint a Crown solicitor for each county, and that is in operation at present. Wherever his practice may be, he is bound to keep an office in the county. There is a separate class of Crown solicitors at quarter sessions, whose salaries are smaller. They are appointed by the Home Secretary, for life or good behaviour. It is their business to conduct the cases from the magistrates' courts to the final ending. They prepare indictments, and in any case of difficulty send the papers to the Attorney-General, or Solicitor-General. Then there are Crown prosecutors or barristers who conduct the cases in court, and if necessary assist the Crown solicitor in the indictment. There are generally three—senior, junior, and supernumerary—the last being so called not because he is past his work but because he has not got to it yet. These are appointed by the Attorney-General; they hold their offices for life and good behaviour; and I presume they are satisfied with their appointments, because one of them, Sir Thomas Staples, is somewhat advanced in life, inasmuch as he was a member of the old Irish Parliament in his youth; but he still conducts prosecutions for the Crown with the ability which has distinguished him throughout a long career. There are generally about three of these Crown prosecutors for each assize; they are the direct agents of the Attorney-General: and they are not removable. They are not like the deputes in Scotland, who go out with the government and take a lively interest in politics. I know it is said that this appointment of Crown prosecutors has the effect of depriving junior members of the bar of opportunities of practice. There is something in that objection; but it is very difficult indeed to propose any measure of improvement which shall not be open to some slight objection; I can only say that in Ireland the junior barristers who go circuit endeavour to learn their business by watching the proceedings, and also by defending prisoners. I have come to the conclusion that the Irish system is a very good one. It coincides to some extent with the Scotch system, but it has these advantages—that the Crown prosecutors are more numerous; that the monopoly is not so marked; and that they are independent of political changes; so that they are more likely to attend assiduously, industriously, and with success to their special duties. The Crown prosecutors in court are entirely paid by fees. The first one on the list has a brief in every case; if the case is important the second has a brief also; if it is of very great importance the three have briefs; and if the case rises out of the ordinary character the Attorney-General and Solicitor-General go down specially: and of course the Crown prosecutors have briefs under the law officers of the Crown. As far as I have observed, the system is a good one. I never heard of a malicious or wanton prosecution. It is perfectly true that any private person may prosecute if he likes; but that is so unusual a course that if any one were to do it he would be open to the imputation of malicious motives; and I never heard of such a prosecution being undertaken except for the gravest reason. The only objection I can see to Irish criminal procedure is this. For some reason the judges are not in the habit of passing sentence when the verdict of the jury is given.* The sentences are all pronounced in a batch just before the judges go out of town. Now every person tried brings a host of friends and neighbours to watch the trial; and if, whenever a man was found guilty the sentence of the law were passed upon him then and there, a much more profound and beneficial effect would be created on the minds of the persons present than is done when the sentences are all given in a batch, when probably the friends and neighbours of the accused have gone home. The important subject of the unanimity of juries has not been mentioned to-day. I think there is a great failure of justice because the verdict of ten or eleven jurymen cannot be taken after an interval. The Scotch system is much better in this respect. A verdict ought to be taken from the majority after a delay of six hours. The Court of Criminal Appeal is a bad one. In England it is virtually the Home Secretary, while in Ireland it is the Lord Lieutenant. Now, however carefully the duty may be performed at present, I say that any

* See *Transactions*, 1861, pp. 404, 493.

system which depends for its efficiency on the personal attainments of the man who holds the office is bad, and that there ought to be some more effective control over the absolute disposal of criminals. The remedy for this is the creation of a Minister of Justice.

Lord BROUGHAM: I see one great objection to the transfer of the Irish system to this country, or at least to its sudden introduction into England, and that is that it would give the holders of power, for the time being, the appointment of such an enormous crowd of paid functionaries. Some of the offices would be paid by salary and some by fees, but they would be all lucrative offices. There would be five or six hundred lucrative officers to be at once appointed, and for life, for all the prosecuting barristers and all the Crown solicitors are appointed for life, as they really must be in order that they may be substantially public prosecutors. Such an immense number of appointments to be made at once really staggers one; and that was the great difficulty I found in 1834. I wanted then to apply, by way of experiment, improvements to the Central Criminal Court, and it was then found impossible to appoint prosecutors for the provinces.

Mr. NEATE, M.P.: As to the important point of a public prosecutor there seems to be some further explanations wanted, for we have not had the machinery sufficiently described by which the proposed improvement is to be carried into effect. As to prosecutions at the assises and sessions, the great difficulty appears to me to be to organise a department or an officer of public justice who should originate proceedings in the first instance. Who is to be the officer? We want somebody in every parish or small district in the kingdom, whose duty it would be to bring the case before the committing magistrate. Now that is done in France by the magistrates there, who have the right of originating proceedings. If a magistrate hears that a robbery has been committed, although no one bring him any information, he has a right to send to the police and say, "I hear of such a thing," and to have the people brought before him and originate a proceeding. And it will be found necessary, if we are to adopt the principle of this system, to give to the justices of the peace something of that power of taking original action which they have in France. No doubt any great review of our criminal system will involve a very considerable change in the office and jurisdiction of the justices of the peace. It becomes every day more plain that the magistrates are not equal to the duties which they still continue to discharge; and in some way or other some very great reform is needed in that direction. With regard to the objection as to patronage, it is a very strong one. I would suggest that, supposing the proposed reform were carried into effect, the public prosecutors, at any rate the barristers, might be appointed by the judge in the same way that the revising barristers are appointed. And I may mention that there are so few offices in the gift of the Crown for which solicitors are qualified, that I think the public need not grudge an addition to the patronage of the Crown which would be for the benefit of solicitors. I think it is very important that the patronage should not go beyond the appointment of the solicitors; and that the counsel for the prosecution, in every case, should come into court without being in any way previously committed to any opinion as to the guilt of the prisoner. I have had opportunities lately of studying very much the French system. I have been over there and seen remarkable trials, and have talked to leading men about them; and I am satisfied that it is a very great evil that the counsel who brings the case before the jury should be in any way pledged to an opinion; should, as it were, feel his character concerned in obtaining a conviction. It leads to an eagerness in the prosecution of which I could give sad instances. I heard one of the most eminent public prosecutors in France prosecute a remarkable criminal, and he began his address by referring to the fact that the deputy usually attended the court, and went on something in this fashion:—"Gentlemen, I daresay you are wondering what brings me before you; but the fact is you have now to try one of the most tremendous villains the world ever produced," or words to that effect. There was some truth in the statement as to the character of the prisoner. He was indicted for six different offences, and the number of questions left to the jury in the case was fifty-six. The great offence with which he was charged was murdering a man into whose house he had broken for the purpose of robbery. He and his companion had been in the house once without doing mischief, and the second time they were disturbed, and they killed

the man. Well, the prosecutor in his address said, "You know you would have killed him the first time, but the sacredness of his sleep protected him—gentlemen of the jury, that is one murder." That is the way the prosecutor goes on when his character is concerned in bringing a prosecution and getting a conviction. Another thing in France is that they don't give a man the benefit of his trial at the proper time. The public prosecutor told me that they had kept a man, against whom there was not sufficient evidence, eleven months in custody, and then they discharged him because they never like to bring a man to trial without convicting him. [Lord BROUGHAM. But the public prosecutor in France has not the power which the judge has and exercises every day, of putting the prisoner to the torture by cross-questioning him, and cross-questioning him with the information and the evidence before him.] The public prosecutor has the power of examining the prisoner. [Lord BROUGHAM. In open court before a jury?] No; the judge does it in open court. But the public prosecutor has a right to see and examine the prisoner in prison, and that is the great abuse of the present system. It is not done in open court, but in the jail, where nobody sees, and where the prisoner has no counsel to defend him. One of the questions which is about to be submitted to the Foreign Congress which meets about this time, is, Whether the prisoner should not have under his cross-examination the benefit of counsel to tell him whether he should answer or not. [Lord BROUGHAM. But the public prosecutor has no power to avail himself of that examination which he has conducted in prison; he cannot bring the answers to that examination before the jury?] I think everything they get can be brought before the jury—all the confessions. Your lordship knows the remarkable case of that woman that was convicted on her own confession when she was innocent. The public prosecutor said to me, "Now we have got a woman under trial who was committed to prison upon her own confession of having murdered her father, and she did not do it." [Mr. WESTLAKE. These are materials for preparing the act of accusation, and the first step is to submit the act of accusation to the jury.] While I have condemned the French system, there are some things, I think, in their procedure which we might adopt with advantage. I see no reason why the attention of the prisoner should not be called to any particular points of the evidence which might be within his own knowledge, and which he might be able to answer, provided he is not unduly pressed. In this trial to which I referred part of the evidence was that of a gunsmith, who said he had given the prisoner a brace of pistols. The judge turned to the prisoner and asked, "Have you anything to say?" The prisoner said, "I say, my lord, it is not true." And the judge did not pursue it any further. I said to the judge afterwards, "We were told you were severe in cross-examination, but that does not appear to be your system." He said, "No, it is not my system, but that is the system of some of the judges." Some judges in France carry the system to the extent of cross-examining the prisoner, which is very objectionable; but I do not see why you should not call the attention of the prisoner to a material fact, and say, "Now what have you to say?" Take the case of an *alibi*. If the attention of the prisoner was directed to some point in the evidence he might say something in regard to it which should convict himself. And why should he not convict himself? I never could understand why a prisoner should not be allowed to convict himself, if he is not subjected to any undue pressure.

Alderman LEEMAN: Having been now a clerk of the peace in this county for some twenty years, and having had some practical experience of the working of the criminal law, I ventured upon the occasion of the inquiry to which reference has been made, to give an opinion which I have retained from that hour, namely, that the appointment of a public prosecutor is not necessary for the due administration of justice. I think it is right on an occasion like this to endeavour to see what are really the practical difficulties with which it is said we have now to contend in the administration of justice. Now it may be all very true that there are evils existing about the Central Criminal Court, which it is desirable to have reformed. But surely it is not because in some few instances these abuses exist that you should introduce a system which I venture to say would go to sap the very foundation of the criminal law in the remote districts of the country. What is the case in the large towns of the

country and also in the agricultural districts of the country? Why, in every large town you have got a body of police now established. It is said that these police connive with parties, and are themselves the institutors of the prosecutions. That may be the case in some instances in London; but I venture to say it is not the case in the large towns of the country; it is a libel on the police to say so. There is no public prosecutor except in one or two large towns: and in towns where there is no such officer, there is not an instance of the abuses referred to as existing in London. Whoever heard that justice was defeated, or that any person was not put upon his trial from Bradford, Halifax, or any of the densely populated districts for want of a prosecutor to follow up the criminal? And why? Because in recent times there has been the establishment of a constabulary in our counties which has got the charge of these prosecutions. It is impossible for any great crime to be committed in this county, without your having within a very few hours the diligence brought into play of the various chief constables, and it is impossible almost for that crime to remain undetected and unpunished. I say the same for the agricultural districts. There all the purposes for which a public prosecutor is said to be required are attended to by the chiefs of the police. Let me cite what occurred only recently. In the riding immediately adjoining us, during last winter, there were incendiary fires in large portions of the county. Was there any necessity for a public prosecutor in those cases? The chief constable of the district was immediately put in action; and immediately after the detection of the criminal it became the business of the constabulary to see that the prosecution was carried out. But it has been said that it is necessary you should have these public prosecutors to prepare the briefs for counsel, and to see that there is no collusion before the party comes upon his trial. Now it should be borne in mind, that a very large proportion of the crime of the country is actually disposed of without a trial at quarter sessions. A large number of the cases which now occupy the magistrates are disposed of by them. Is it proposed that there should be a body of functionaries to prepare all these cases for trial? And has it been considered what must be their number and how they must be at hand at a moment in every case which occurs in the widely diffused districts of the country? Take our north and west ridings. Is it proposed that in each of the divisions and sub-divisions of the ridings in which magistrates sit for the administration of justice, it shall be necessary for the police, immediately after a case of this description has occurred, and when they don't know whether the man will consent to have the matter disposed of before the magistrate, or whether he will go to the quarter sessions—to go and seek the aid of those government officials in order that they may attend before the justices and prosecute? Those who propose that can have very little knowledge of the vast proportion of cases which are thus disposed of in our west riding towns, and in Lancashire towns, and anywhere where there is a great mass of population. Now in every one of these cases the police, as soon as the crime has occurred, are expected, and they do actually see that the case is brought before a magistrate; and I venture to say that three-fourths of the crime that is committed in this country is of this minor character. With regard to other cases, I know no instance in an experience of twenty years as clerk of the peace, and of thirty-five years' practice as a solicitor—where there has been a failure of justice for the want of a public prosecutor. I do not believe it is for the interests of the liberty of this country that we should have that large number of paid officials that would be necessary to carry out this change, and the evils attendant upon the appointment of whom have been referred to by Lord Brougham.

Lord Brougham: There is one point of view from which I wish this subject to be considered, and that is the protection of the judge. Since counsel for prisoners were allowed to address the jury the judge is placed in this unpleasant predicament—that whether he will or not, where there is no prosecutor in court and no counsel for the prosecution, he has to take the part of the prosecutor's counsel, to answer the prisoner's counsel, and to see that the case goes right before the jury. Now I think that power ought to be given to the judge, when the prisoner is represented by counsel, to appoint some one for the prosecution. In the Central Criminal Court the judge is often left to see the case put properly before the jury, there being no counsel for the prosecution.

Alderman LEEMAN: I believe I am right in saying that out of London there is no such practice as the prosecution being conducted without counsel. I submit that a law which would render it imperative that counsel for the prosecution should be employed at the Central Criminal Court might well pass; but that does not render necessary such a change as that now proposed over the whole country.

Dr. WALTER SMITH: In London it is the practice always for the judge at the Central Criminal Court and in the district courts to hand down the deposition to some counsel as long as possible before the case comes on for trial.

Mr. PALMER: The custom is, that wherever there is a counsel for the defence the judge invariably throws the deposition down to a member of the bar; but it is a rule equally deferred to in all cases in the Middlesex Sessions that when there is no counsel for the defence the assistant judge or the deputy assistant judge prosecutes. Then even last week, in the Central Criminal Court I saw the learned recorder himself prosecute where there was no counsel retained for the defence.

Mr. HOLTBY, Clerk of Arraigns: I have the honour to attend the northern circuit, and I can speak from my own knowledge that in no case whatever on that circuit is the judge ever left in the unpleasant position of having to prosecute. A brief in every case is delivered to counsel, and the fee to counsel, as well as attorney, is allowed in taxation. As to the question of a public prosecutor, I do not not think it at all necessary. As to cases failing from the parties not prosecuting, I have always understood it to be the law, that the moment a case is before the magistrate, either by warrant or by summons, he has the power given him by statute to compel all parties to appear before him who can give him any information; and it is entirely out of the power of the prosecutor to compromise, unless the magistrate himself is cognisant of it. Very lately a decision was given in the Court of Queen's Bench on this point. It was a case of assault, in which the magistrate insisted on the case being carried on: a conviction followed, and an application was made to the Court of Queen's Bench to quash the conviction. The court said, "No; the magistrate had cognisance of the case, and he could compel all parties to appear." My experience has been extensive, and no case has come under my knowledge where justice has suffered by the case being left in the hands of a private solicitor. I have had occasion to read the depositions before the northern circuit, in order to enable me to prepare the indictments; and the clerk of assize has always found it to be his duty to read the depositions to make up a calendar for the judge, that he might know the nature of the cases; and i can say that those depositions, taken as a whole, are exceedingly well taken by the clerks of the magistrates. I am aware that there are some cases where it may be necessary to call in some other aid than that of a private solicitor. Suppose a case occurs in the north or east riding of that extent and responsibility that a private individual, who may be poor, cannot afford to pay the preliminary expenses. What is the result? Why, the magistrate himself, either individually, or by the aid of the police committee, will either write to the solicitor, or clerk of the peace, for the riding, or write to the police committee for that district, and say, "I think that is a case of such magnitude, that the solicitor for the riding, and clerk of the peace, should take up the case." Such a case occurred recently in the west riding; considerable preliminary expenses were incurred, and the solicitor of the riding, at the request of the magistrates, took up that case. That was not done because justice would have failed under a private solicitor, but simply on account of the preliminary expense. I am not sure that in this county any advantage would be gained by the public by the proposed change; and I am satisfied that it would be costly, and as uncertain as, if not more uncertain than the present system.

Dr. WALTER SMITH: It appears from the speeches of the gentlemen who are opposed to the appointment of a public prosecutor, and who consider it unnecessary, that there is in fact such a person employed everywhere to do the work. In most places, Alderman Leeman tells us, it is done by the police, and now Mr. Holtby informs us, that in addition to the influence which is exercised by the police, there are times when the attorney for the riding is called in by a letter sent to him by the committing justice. He would write a letter to some party, who should take care to prepare the proper evidence. Thus the evidence is that some such officer

is necessary, only they say that he should be a policeman in the one case and a magistrate in the other. Now without under-rating the ability of those persons, I think that we should not grudge the small sum which would be required for the payment of gentlemen who would do the work at the same rate as in Ireland —say £500 a year for each county, which for fifty-two counties would be £26,000. I fully appreciate the observation of Lord Brougham as to the danger of adding to the patronage in the hands of the government; but I think that evil would be far less than what at present goes on. In London we have an officer who does for the corporation for which he is engaged the business of a public prosecutor. We have the Mint and the Bank solicitors, and the Post Office solicitors, and the Treasury solicitor, who acts for the Crown, and each of these gentlemen employ their regular counsel; and gentlemen who attend the Old Bailey will bear me out in saying that there are no prosecutions so well conducted, or where the evidence is always forthcoming with so much regularity as those prosecutions done with what I may call a *quasi* public prosecutor. We have heard a paper read to-day on the subject to which, I am sorry to say, so little attention has been paid—I mean in regard to the exclusion of testimony. I have heard it said that the law of England assumes the innocence of a man until he is proved guilty; but there is one maxim of the law which seems to assume the guilt of a man before conviction. He is told never to open his mouth lest he should convict himself. No man is bound by the law of England, it is said, to betray himself. That is to say, in addressing that maxim to the prisoner with the sanction of the law, you are saying, "You are guilty; for heaven's sake hold your tongue, and attempt to explain none of the circumstances against you; your observations will only be sure to give evidence of your guilt." In the same strain is the magistrate directed to address the prisoner after the case is brought forward; "You are not bound to say anything; but whatever you say may be used against you." Used against him; may it not be used for him? I am glad that the attention of the Association has been directed to this subject, as I think it absurd that an accused person should be advised never to say a single word, although by so doing he may dispel the cloud against him.

Mr. Harris, Registrar of the Manchester Bankruptcy Court: I think the want of a public prosecutor is shown by the fact that in so many places throughout the country such an officer has been appointed by the local authorities. There are some classes of offences in which he is very much required. For example, the case of railways sending out smoke is not taken up for want of a public prosecutor, whose duty it would be to proceed against railways for the nuisance. In some districts of the country the parish officers are *ex officio* prosecutors—persons very ill qualified to conduct prosecutions. I can hardly suppose it possible that you could find persons more improper for the purpose than the police. It is believed that they are open to bribery; I do not know whether they are so or not; but such a suspicion is in itself a great defect in the administration of our law. Persons should be appointed as public prosecutors who are above suspicion, and who have some knowledge of the law.

Dr. Waddilove: I wish merely to make one remark as to the verdict "not proven." Objections have been raised to that verdict, and they are reasonable objections; but we know that they have in France a verdict of "guilty, with extenuating circumstances." I cannot but think myself that that is a very just view to take of a large number of cases. Sometimes a very serious offence may be committed under circumstances of extreme provocation which certainly render the offender not so criminal in the eye of common sense and justice, as if that provocation had not been given. I would recommend that a verdict of that kind should be adopted in this country. It is well known that at present juries acquit in some cases where they think the offence is not one which ought to entail a capital punishment. Now, if they were able to give a verdict of "guilty, with extenuating circumstances," such a verdict might fully meet the justice of the case.

Mr. Stuart, in reply, reiterated his conviction of the necessity for a public prosecutor, which had been confirmed by what he had heard in the discussion.

MENTAL COMPETENCE.

On what Principle should the Law deal with Questions of Responsibility and Mental Competence in Civil and Criminal Cases respectively?

The papers on this subject by Mr. Stephen and Mr. North will be found at pp. 178, 192.

DISCUSSION.

Rev. CANON TREVOR: I venture to rise thus early in the discussion, because I am desirous of marking my decided conviction, that the most important branch of it does not exclusively, or even primarily, belong to either of the two learned professions represented in the papers read to-day. I mean that criminal responsibility is not a question of law nor of medical science, but a moral question, upon which we are obliged to employ the assistance of the law and of medical science, but with the fixed resolution on the part of the public and the legislature, that neither of them shall dictate the conclusions upon which the life and liberty of the subject are to depend. The insufficiency of either of these learned professions to determine the great questions here involved, has been most strikingly shown in the two most able papers read to us to-day; for while it is impossible to over-estimate the care and diligence which their respective authors have bestowed on the subject of their papers, I think no one could have listened to them without perceiving that they have not treated the question on the great principles upon which it really rests, or even seemed to appreciate the exact position of the question, as it must come before the legislature and the public. The learned gentleman who read the first paper fell into a mistake, I think, when he coupled the question of criminal responsibility with that of mental competency in civil actions. No doubt, upon a very narrow view of the subject, the commission of murder and the power to make a will may be treated as analogous legal questions, as the former is an act contrary to law, and a good will is an act prescribed by law; but here all the analogy between them ends. The power or competency to make a will is an artificial power, which has been bestowed upon the members of society by the law of the land. It involves no moral question, nor does it involve in some cases any question of mental competency. A man of twenty-one years of age is permitted to make a will, not because he is mentally more competent than a man of twenty, but simply because the law has been pleased arbitrarily, as a mere matter of social regulation, to make twenty-one years of age the age of competency for that particular act. In like manner an unmarried woman is competent to make a will, and a married woman is not competent; not because the unmarried ladies are in a higher state of mental capacity than the married ladies, but because the law, in the institution of marriage, has conveyed the power to the husband. On the other hand, the question of criminal responsibility stands upon an entirely different footing. A murder is a crime, not because it is forbidden by the law of the land, but rather the law forbids it because it is a crime against God and against nature. And in laying down the principles upon which a trial for murder shall be conducted, the law has not been prescribing its own arbitrary distinctions, but has been endeavouring to ascertain the true distinctions which exist in nature, and which may be supposed to be revealed to us by the law of God. I cannot, therefore, agree with the learned gentleman that there is no legal test of insanity. On the contrary, it strikes me that the gentleman who read the medical paper has more accurately stated the fact, and that there is a legal test upon this subject; and the strongest proof of that is, that whenever a person is found insane upon a trial for murder, the verdict is that he is "Not guilty by reason of insanity." How would it be possible for the Court to accept of such a verdict, if there were not some legal test of insanity, which takes away the guilt which would accrue to the act? I think the learned gentleman showed at some length, and with great refinement and closeness of argument, what these tests really are: but, on the whole, I should prefer to fall back upon the simple test laid down by learned judges, "Did he know what he was

about? and did he know that it was wrong?" that is, "Had he mental competency sufficient to discern the character of his act?" and "Had he a sufficient amount of moral knowledge to know that the act was wrong?" And here I cannot but observe, that a great deal of the confusion which seems to pervade this question in the public mind, arises from a singular misuse and confusion of terms. We have heard this day in both the papers terms used which are absolutely improper and illogical. There is no such thing in existence as "moral insanity." If "moral insanity" were properly translated into English, it would mean vice or crime; insanity is a state of mind. The morals are a totally different department. Again, there is no such thing as "mental disease," which has been spoken of. Disease is a thing which belongs to the body. There is physical disease; there is mental insanity, and there is moral irresponsibility: and if these words were all given in their proper signification it would clear up a great deal of the difficulty which seems to arise on this subject. Mental insanity may follow from physical disease, and moral irresponsibility will follow from mental insanity; but each of these questions are to be treated separately, and each of them are to be held in their own department. Now there are two great schools upon the subject of "moral insanity," as people have got to call it in late days—the German school and the English one. I am sorry to find the English school of medical science is fast going into the errors of the German school. These errors are carefully pointed out in the work of the celebrated French surgeon, Esquirol. Esquirol, being a surgeon and a professor of physical knowledge, invariably makes his cases of insanity to be marked by physical symptoms. He talks a great deal of the state of the pulse, of the appearance of the eye, of the condition of the body, and the functions of animal life; and when he finds in any of these a great and serious derangement, he holds himself able to decide as to the amount of mental insanity, which in some cases he makes out to be of such an extent as to make the patient morally irresponsible. But Esquirol is very earnest in guarding against the confusion of the various branches of the subject. He says that crime must never be allowed to be an excuse for crime. It must never be said that a man is irresponsible only because he is a very great criminal. Now I think that my friend Mr. North has been saying that to-day to a very great extent in his paper, and that when he says that experience has established certain facts, it only means that he is pleased to make assertions and mistake them for facts. For example, he speaks of a certain state of motives being characterised by a want of power to do right when a man knows what is right. Well, but the possession of knowledge and the want of power to do what is right, is the exact definition of crime. When I have a will—when I know the thing I ought to do and do it not—when I find in myself a law in my members warring against the law of my mind, and bringing me into captivity to the law of sin which is in my members, that is the definition of moral crime. That is the true point of a man's sin against God, and of his responsibility to human laws. Not to have the power to do that which a man knows he ought to do, is to be a criminal. Here is the question which the medical gentlemen seem to have left altogether out of view; that is, the very great question of responsibility to the law of the land, because what is to bind any man who says, "I know I ought to have done that; I knew perfectly well I was doing wrong, but I had not the power to resist the impulse to do that." What are the most irresistible impulses which the history and the experience of mankind have refused to recognise as excuses for crime? They are the impulses of anger and love. We have had lately the exhibition of a man who murdered the object of his love out of a jealous transport. Was not that man as much deprived of the power of resisting his impulse as any madman could be? And here is a singular inconsistency in the administration of the law itself. I hope the legal profession, if they follow in the discussion, will try and explain why this inconsistency arises. It was very properly stated, that the law presumes a man to have done an act wilfully and maliciously, which has been proved to have been done, until he is able to rebut that presumption by evidence; but if it is proved in the evidence that the man did the act in a sudden transport of passion, the law has that amount of consideration for human infirmity, that it will reduce the crime from the

capital offence of murder to the minor one of manslaughter I want to know why that same principle is not applied to other passions of the mind, as well as to the one passion of anger? Why, if a man commits a crime in a sudden transport of love or jealousy, it is not reduced from its higher character of murder to that of manslaughter, on the same principle as it is reduced when he does it in a sudden transport of anger? But with that exception, I see nothing in the present administration of the law which requires to be altered. I believe that the sentiments which are being pressed upon the attention of Judges, and which I have frequently heard pressed upon their attention with great learning and persistency on the part of the medical profession, are thoroughly and fundamentally immoral. I believe that they rest upon a total misconception of the moral character of man, and that if they were carried out, they would result in an open and undisguised materialism. Mr. North confounded together the reason and the will, and he in the same moment told us that the man was deprived of his will, and left a prey to his animal passions. Why, his will and his passions are in the same department of his nature. His will means the same thing as his passions. That is the moral department of the man's nature; his knowledge is his mental department, the state of his organs is his physical department; but his will, his acting, and his disposition to act, are parts of the moral nature of the man, and not his mental nature. A passion means nothing but giving way to the will; to a disposition to do so and so; and man's moral responsibility rests upon the fact that God has given him the power to control his passion, and if by his own corruption, or the degradation of his own nature he loses that power, he shall not be exempted from the punishment which is due to sin and to crime. Now, our law recognises these principles in one remarkable fact which is well known to all who hear me. It is constantly repeated that drunkenness is no excuse for a man's crime. Now, why is it not an excuse? It is quite certain that the drunken man does not know what he is doing, and does not know that it is wrong; and so he may seem to comply with the definition of irresponsibility which is laid down by the Judges. But nevertheless they always refuse him the benefit of that irresponsibility, because his drunkenness has arisen from a previous exercise of his will for which he ought to be responsible. Well, how do we know what previous acts of debauchery, what wild and wicked notions, what crimes have brought about that state of mind on which my friend Mr. North would invoke the benefit of irresponsibility, because the man has lost the power to do what he knows he ought to do. That is to say he has encouraged himself so long in wicked habits that he has now lost the power of abstaining from them. He has gone on coveting his neighbour's goods till he has lost the power of not stealing them—he has coveted his neighbour's wife till he has lost the power of not committing a violent aggression. He has brooded over malice and anger in his heart till he has lost the power of not murdering his enemy. And we are told that this loss of power—which co-exists with knowledge on the part of the man that he is doing wrong—is not a loss of power which proceeds from his own passions. Mr. North chooses to reverse the real process and tells us it is established by fact and evidence. He chooses to say that the man has lost the power and therefore is given up to animal passions; and I choose to say that the man has given himself up to animal passions, and therefore he has lost the power. Mr. North would exempt the man from the punishment due to his misconduct because it has only been sufficiently persevered in, and in so saying he directly transgresses the fundamental principles which are laid down in the great work to which I have been referring —that of Esquirol. I remember discussing this question with Mr. Baron Bramwell during a trial when these theories were brought forward. Mr. Baron Bramwell told me that the impression the evidence produced upon his mind was this: that the surgeons meant to affirm that a man's mind was something like his body—that just as if a man kept his shoulder for a long time up the bone would grow stiff and he would lose the power of taking it down, so these surgeons wanted to convince him that if a man keeps his mind occupied upon a particular crime he loses the power of changing his mind and becomes irresponsible. My reply on that occasion was, "Why, that is downright materialism." "Certainly it is," said the learned Judge, "and nothing else." And to

materialism—to the absolute extinction of man's immortal soul, and the spiritual character of it, do all these theories directly tend. The power of the will is the power which God has given man, and by which he is distinguished from other creatures. You have no right to call a degraded will an animal passion. You say that goes to the gratification of an animal nature; but all that is theory and metaphysical language. You don't know what an animal thinks, or desires—or what are an animal's propensities. You only know that the human being does the same thing often as animals, and very often worse; but that he does that from the instinct that guides an animal you not only do not know, but you ought to know—if you know the great source from which knowledge comes—that this is not true. The animal does his function from an invariable instinct which God has implanted, and which does not err. But man does all his actions, from the highest and holiest down to the lowest, from a will which God originally created with a power to do well, and which has still that power, so that God will hold him liable for doing wrong, and he ought also to be held liable by man, unless that power is interrupted and resisted by the visitation of God depriving the man of mental capacity. Now in respect to mental capacity I said before that Esquirol has laid down—and this ought to be the rule in courts of justice—that mental insanity is not to be assumed unless there be some discernible ascertainable traces in the body. I have seen that theory modified. I have seen in the published work of a gentleman whom I saw in the room yesterday, the statement that there may exist a derangement of the physical tissues and structures so minute as not to be observable even by means of the microscope, or by the scalpel of the surgeon. But still it was held in that view, that there is to be derangement of the tissues, or of some portion of the bodily organisation, before the medical man is justified in inferring a state of mental insanity. Now if the medical men would confine their evidence in courts of justice to their own art and experience, there would be no conflict between them and the legal profession; but in every case I have yet seen there is a constant over-stepping on the part of the medical men of the limits of their authority, and the claiming of dogmatical authority in some other. When a medical man tells me that a man is mentally insane, it is simply to tell me that he is legally irresponsible; and I say to the medical man, "I demand to know why you say that; you are not a judge of mental insanity or legal irresponsibility more than I am. If you mean to give me evidence that by what you are able to judge of—by the state of his pulse, or brain, or by his physical structure, it may justly be inferred that his mental powers are deranged, I admit your evidence *valeat quantum*." That evidence goes to the bench and to the jury, and to the extent the medical man proves the prisoner to have been subject to derangement, to that extent you may fairly infer a derangement in the matter then in question. But when medical men expect to over-ride all cross-examination—when they expect to lay down their own principles of responsibility and irresponsibility, and say that they are established by experience and by fact, I would say to them, "You must not be surprised if those who totally distrust the principles upon which you have proceeded and see that if they were allowed to be carried out they would seriously affect the whole moral teaching and condition of the nation—you must not be surprised if those persons object and ask you to remain within your own boundaries and allow us to draw conclusions from established facts in one department of investigation as we do in other departments. The great principle to be laid down is that there is this threefold distinction which should ever be kept in mind, so that the words which indicate one department should not, by being applied to another department, lead to confused and distorted conclusions. Physical disease is the department of the medical man; mental insanity is a consequence of that disease which the medical man may very valuably assist us in inferring from the knowledge which belongs to him; but moral responsibility is again a third step in the matter which should be judged of, not absolutely by the lawyers, but by the lawyers in subordination to the great principles of reason and justice. I hold that the very foundation of all religion, justice, and sense of duty, is involved in not allowing that doctrine to go forth, that a long continuance in crime should exempt a man from punishment. A

man may brood over criminal objects until, as Mr. North says, he has lost the power of control and is given over to animal passions; but until, as I say, he has sinned away the light was in him, he ought to be held responsible. This idea, that continuance in sin should practically have the effect of exempting the sinner from punishment, is the great point upon which I rose to enter my most decided dissent.

Dr. WILLIAMS, York: I think we are in a particularly favourable condition for arriving at the truth, seeing that we have had physic, law, and divinity discussing this question. Whilst I think that the medical man has advantages which neither the moralist nor the lawyer can claim, there is no question that the labours of all three departments will in the end tend to the establishment of the truth, and to a correct appreciation of the importance of the subject. I thought that Mr. Stephen in his admirable paper made an excellent apology for the law. He said the defect was not in the law but in the administration of it. However, whether the defect be in the law itself, or in the administration of it, it is a very important thing that it should be brought into harmony with the advance of medical science upon this subject. The dictum of the law which was laid down several years ago by the Judges was, that if a man knew the difference betwixt right and wrong he was amenable to the law—he was liable to be punished. Now I think Mr. North very clearly showed that a very large proportion of lunatics do possess a certain amount, and often not a small amount of knowledge of what is right and wrong, and therefore they are amenable to restraint, to punishment, and to feel the effects of their misdoings. But on the other hand, as was also shown by the paper, though a man may know what is wrong, though he may know that he is doing that which will injure his neighbour, and that he is doing that which is contrary to the law; yet there is a condition of his mind, there is a subjection of his will to the disorder of his mind, which renders him powerless to restrain his insane impulse, so that whilst knowing what he is doing, and that he is committing a crime, he has not the power to resist the impulse to do so. The truth is, that the power of the impulse annihilates for the instant every other power of the mind, and therefore he is the victim of what we have so frequently heard of—an impulse which he has not the power to control. Now I have been frequently disposed to take the consideration of suicide along with that of homicide. When a man commits suicide, and when it is the first act he has committed which has brought the integrity of his understanding into question, the law and the common feeling of our nature incline to the doubtful and the kind side; and in order that the poor creature may have Christian burial, he is considered to have been under a temporary derangement; whereas, on the other hand, as the law stands now, and as the practice obtains, if he commits a crime which subjects him to punishment, then every effort is made to prove that he is sane. Now here is a divergence under these two similar circumstances, both originating in a disordered and distempered state of the mind. I think that when these things are brought before our legal friends, it will be felt by them that a great alteration needs to be made, both in the law and in the administration of it. And it will not be the first time. Three hundred years ago, in France, sorcerers and witches were subjected to capital punishment over and over again. On a certain occasion in the fifteenth century, medical men were called in to consider the nature of a case and to report upon it, and the report was to the effect that there was no crime; that there was a loss of power on the part of the persons accused, and that they were not amenable to the ordinary modes of punishment. And it is creditable to the law of that country, that from that period up to the present time no executions for that offence ever took place. Now we have heard a good deal this morning with respect to responsibility, competence, and incompetence, and I am about to read a very short paragraph from a paper written by the Archbishop of York, at the time he was provost of my own college, which will be found in the Oxford Essays, on "Crime and its Uses;" and the great purport of the paper is to show that responsibility varies to an illimitable extent; and we know very well, that if we take the Archbishop himself as a type of a vigorous and healthy mind, and if we take an idiot of the lowest grade in the Asylum, there is an indefinite number of grades

betwixt these two; and therefore, he says, it is this limited responsibility, this uncertain power, which should guide in the decision of these cases, and that it would be impolitic, unwise, and cruel to deal with all alike under these circumstances. The passage to which I refer is as follows;—"The writer very properly says, that the doctrine of limited responsibility is held by every one in his daily dealings. He makes excuses for the failings of the ignorant, the infirm of purpose, the irascible. He regards their peculiarities of temper and disposition as entitling them to indulgence. Is not the time approaching, when such a doctrine will be admitted into the law of the land? admitted, indeed, with the utmost caution. No sickly sentiment, no metaphysical theory, must rob society of her security against the felon, but there are cases in which cerebral disorder is clearly present, yet in which some practice known to be sinful has given to the malady its direction and consequences." And then he goes on to quote the illustration of Brough, the poor woman who destroyed five of her children. Without entering on the question which has relation to this one, that of capital punishment, I hope that the law will in future work in harmony with the advancement of science, and that we shall no longer hear of the execution of lunatics. It was late in the seventeenth century that the last burning took place for witchcraft, and I hope that before the expiration of this nineteenth century, we shall never again hear of the hanging of the insane.

Mr. Neate, M.P.: I confess I heard with a great deal of regret the very able paper of my friend Mr. Stephen. I had not had an opportunity of ascertaining his views on this subject, and I was disappointed at finding him on the opposite side to myself. I regret very much that he should have lent the assistance of his very powerful intellect to a system which is already, I think, coming to an end; a system which the Judges themselves, when they have to expound it, only avow with a feeling of hesitation and almost of shame. I should be inclined to find a little fault with the statement of Mr. Stephen, as too technical, and as being hardly correct in its technicality. To a certain extent the law does try insanity as an issue, and not merely as a question of evidence. There is a plea allowed of insanity, and in that case the law inquires into insanity as an issue; and even where the plea of insanity is given in evidence of not guilty, it is more than collateral—it is more than a mere question of evidence. The jury are obliged to add to the verdict of not guilty, the words "on the ground of insanity." Unless that is added to the verdict, it would not be in the power of the Crown to assume to itself the custody of the prisoner. They must find, not merely as a matter of evidence but as a matter of issue, that he is insane. That, however, is a small matter. In either case the law must apply certain tests of insanity, whether for matter of evidence or for matter of issue. But although I do not concur with Mr. Stephen in his judgment, I give him full credit for his courage. He has not shrunk from taking upon himself the complete defence of the law in all its absurdity. Let us take the case which Mr. Stephen put as the weakest on the part of the prisoner, and the strongest on behalf of the law; the case of a man being in other respects apparently rational, and who, in the execution of a preconceived purpose, and for a rational object, kills a man, and that the man who does this really believes that he has a glass hand. Mr. Stephen said, that in that case the law very properly saw no reason why he should not be found guilty of murder; that the judge and jury will say, that in the eye of the law that man is guilty of murder, and that the salvation of his life is to depend on the erring judgment of a Secretary of State. I am correct, therefore, in stating, that in the eye of the law a man may really believe that he has a glass finger, and yet be subject to the extreme penalty of the law. Now I don't believe it ever occurred that a man believed that he had a glass finger, and was sane in all other respects. A man believing that he has a glass finger, believes that his own judgment and impression are proof against all the reason of mankind. It shows that he is incapable of applying the test of experience; that he is incapable of logic. He may be told, that if his finger were glass he would see through it; that if he put it on a piece of printed paper, he would be able to read the letters behind it; but he adheres to his belief, and the fact that he does so shows that he is incapable of understanding the simplest principles of logic, and that where his

own impression is at variance with the experience and unanimous opinion of mankind, he still trusts to his own impressions against that experience and opinion. It is impossible for a man to be under such a delusion as that and not to be generally insane. It is very true that he may still go on repeating by rote the doctrines of morality, and still have a feeling of morality; but when his principles and feelings of morality, which may be quite real and genuine, come into conflict with any desire or weakness that he may have, then the weakness of his reason, as seen in the case of the glass finger, will deprive him of all power of giving due effect to those feelings and principles of morality. And yet we are told that this man would, if he committed murder, be liable to the punishment of death. [Mr. STEPHEN: I have said in my paper that I did not wish to discuss the question of capital punishments. I said the question was not in what circumstances ought a man to be executed, but "In what circumstances is a man to be held guilty of murder, be the consequences what they may?"—whether the penalty should be death or should be merely a fine of a farthing. I then put a case in which a man might think he has a glass finger and might have committed a crime; but I said nothing about penalties.] But according to my view you assume that he is liable to whatever was the punishment of murder? [Mr. STEPHEN: Of course he would.] And I understand you to mean not only that he is liable, but that there is no reason why he should be exempt? [Mr. STEPHEN: No, I did not say that; I confined myself to the precise question. The law has to define murder. I say the law does define murder in what I consider the proper way. Well, then I go on to say that that definition may, as a matter of fact, include many madmen, and that is all I say.] I think Mr. Stephen was quite right in treating as cognate questions the way in which the law treats insanity in the cases of criminals and in civil cases; and I think that there he does not shrink from justifying the extreme folly of the law. Mr. Stephen referred to a case in which the will of a woman made in a lunatic asylum, and who had a strait-waistcoat taken off to enable her to sign her name, was upheld by the law of England. I say that such a decision is a shame to the law of England. The cases referred to by Mr. Stephen date from a very early period. Those cases date from the time when there was great ignorance prevailing, and the lawyers have not found they were at liberty to depart from the decisions of their predecessors. Now in order to enable a person to make a will he should not only be aware of what he does at the time, but he should have a continuous knowledge of the circumstances of which his will is a definite opinion. Say that a man has been insane for five years, and has a lucid interval for half an hour, does he know the circumstances of his family for these five years? And is he not likely, from the very fact of his being sane at the time, to have a feeling that he is the victim of injustice in being placed under restraint, and therefore to entertain a feeling of animosity to those who have been a party to his being dealt with. It is very true that now lawyers do not know what insanity is, and neither do the medical men. I think that whatever may be the position of the law the general feeling of mankind is now, that if there were any definition of insanity upon which medical men could agree, and if they said that in any particular case an individual came under that definition, the common sense of mankind would say, "That man is to be exempt from the extreme penalty or exempt from any penalty as such. He may be a fit subject for restraint, but he should be exempt from penalty." But unfortunately the medical men have not agreed, so far as I know, upon any definition of insanity, nor do they agree upon the application of it to individual cases. But I certainly think that their opinion upon the point is of much value, and of more value than it is often allowed to be in individual trials, but I do not think it is the best way of ascertaining that opinion to examine medical men as witnesses in the manner now adopted, the difficulties attending which plan have been very well pointed out by Mr. North: because men are goaded, very likely, by cross-examination into the expression of an opinion beyond what in their cooler moments they would really express, and they are led into exaggerated expressions which deprive of their proper value the juster and more moderate expressions with which they begin their statements. It is also an objection that

they are not the witnesses of the court but of the party who has brought them into court. The proper suggestion would be that in all cases where the collateral issue of insanity is raised either two or four medical men should be added to the jury. If that course were followed we might then cease to require a unanimous verdict, but might revert to the old principle of our law, that whatever be the number of the jury it would be sufficient if twelve agreed upon a verdict. That would raise the jury to sixteen, but if twelve should agree, the verdict should be given effect to. I would only give an opportunity to medical men to explain to the jury what is the nature of insanity. There are many invariable symptoms of insanity which a jury would look upon with contempt but which men well informed in such matters would tell them were signs of insanity. Therefore it would be very desirable to give, not to all medical men, but to a certain class of medical men proved by certificate to be qualified for the purpose, an opportunity of conferring with the jury where the issue of insanity was raised—not of arguing with the jury, but giving them the benefit of their professional experience.

Mr. WESTLAKE: I am profoundly convinced, with my friend Mr. Stephen in that most admirable paper with which he opened this discussion, of the correctness of the principle he laid down, that the law on this subject must start from the idea of competence,—must lay down the conditions which are required for competence and responsibility: and that decree of insanity can only be introduced where there is an absence of those conditions which the law requires for competency. I will add to the reasons which Mr. Stephen gave in support of that view this, which appears to me to be a very cogent one, that if the law did otherwise it would not keep itself open, as it does now, to receive at any moment assistance and amelioration from the progress of scientific discovery. If the law followed any other course—if the law started not from the idea of competence but from that of incompetence—if it recognized such a disorder as madness which was, as such, to carry with it exemption from responsibility, then it would have to define that disorder—and that definition must be based on the existing state of science: and there would be great difficulty in adapting it to the progress of science. But when it is always open to us to avail ourselves of the existing state of medical and surgical knowledge with the view of showing that, in the particular case, the conditions which the law requires for competence or responsibility were wanting, then it must always be possible, in the trial of every case as it arises, to introduce with full effect the latest discoveries which scientific men have been able to make. But when we proceed further to the examination of those conditions which the law should require for competence, although I believe I agree in the main with my learned friend Mr. Stephen, there is a little difference which I would make. I understand my learned friend to say that the two chief and indeed the only conditions of competence were the knowledge of the character of the act, and the power of controlling the will. My difference with him would relate to the former of these conditions, the knowledge of the character of the act. If a man is so totally mistaken as to the character of the act he commits as, for example, that when killing a man he fancies he is killing a noxious beast, which is, of course, a case not simply of delusion but of delusion affecting directly the very act in question, then there is no doubt that that man cannot be held criminally responsible. But if "knowledge of the character of the act" is to be interpreted in a wider sense than that—if it is to be interpreted as involving a knowledge of the legal or moral bearings and consequences of the act, then I very much question the correctness of the proposition laid down on that point. My learned friend did not very clearly define what he meant by knowledge of the character of the act. [Mr. STEPHEN: I expressly mentioned the power of judgment—the power of drawing probable inferences.] Let us take a few instances that may be given, and see how they become applicable. In the first place it is clearly not the opinion entertained by the agent of the morality or criminality of the act that subjects him to responsibility. For example no one would say that a Thug should be exempt from responsibility because it is part of his religious faith that he will get a reward for strangling a man with a handkerchief. Clearly, therefore, it is not the agent's opinion as to the propriety of the act he commits that subjects him to responsibility. Well, what is the nature of the opinion that

has a bearing upon this question of his responsibility if it is not his opinion as to the propriety of the act? I scarcely see what else it can be unless it be his knowledge that the act is illegal, and that if he does it he will be punished for it. Now I very much doubt whether that knowledge is ever absent. I believe that the acts of madmen are done under such circumstances as show conclusively, in the great majority of cases, that they are aware of the necessity of concealment; and perhaps in no case, if we knew the whole of the circumstances, and could lay open the mind of the madman, should we find that the knowledge of the illegal character of the act, and of the probable consequence that he would be punished for it, is ever wanting. If there be some few cases in which that knowledge is wanting, I apprehend they are so exceptional that it would hardly be proper to erect a legal rule upon them as their base. The main element in what should be the conditions of responsibility is the other element named by Mr. Stephen, namely, the power of controlling the will. Supposing the man is under no delusion directly affecting the act itself—that he knows what he is doing—that he knows he is killing a man and not breaking a glass—the question is, how far he is able to control the impulse which leads him to perform that act? And I will put it thus—how far is he able to control that impulse without more assistance towards its control than persons living in the ordinary state of society receive? Because, perhaps, in the midst of madmen in an asylum, in which a man is surrounded by conditions helping him to control his will, there may be no case in which he may not control his will; but suppose a man out of an asylum, surrounded by the circumstances of ordinary society, and put the question, "In these circumstances was that act under his control?" It seems to me that if that question can be answered in the affirmative the man is criminally responsible, and if it cannot he is not criminally responsible. Now, then, we begin to see the great importance of scientific testimony in order to ascertain in a particular case whether that degree of control over the will is present or not. You show, for example, a number of delusions to which the man is subject. You show a number of strange and unaccountable acts. Very well, they are of vast importance as evidence with regard to his moral power over his actions: but they do not go directly to the point. They can only be connected with the point indirectly in this way, that as a matter of scientific experience—and that, too, experience of a kind especially in the possession of those who have the conduct of mad persons on a large scale, we find that the existence of such delusions, the performance of such strange and unaccountable acts is connected with that weakness of the will which prevents a man's actions being under his control without the peculiar treatment received in an asylum. I do think that juries are at times in the habit of attaching too little weight to evidence of that kind. I do think that it sometimes happens that because they do not themselves see the connection between the strange conduct and mistaken notions given in evidence, and the weakness of the will, they are too much in the habit of disbelieving men who, from their experience have abundant means of knowing that the connection exists—that a sufficient power of control over the will does not exist where the things proved in evidence exist. And it does appear to me to be the fact, that by directing attention to what I have submitted is not the true point on which competence should depend—namely, the knowledge of right and wrong; by directing attention to that point, and not sufficiently to the other and more important point of the power over the will, judges do assist in leading juries sometimes to wrong conclusions. That leads me to answer for my friend Mr. North. Whether he would approve of the answer or not I do not know. Mr. Neate said he had failed to learn what, in the medical sense of the term, was an unsound mind. Now I listened to Mr. North, and I think he said that the great test of soundness and unsoundness of mind is the power of control over the will. Now let us apply these principles to the case which was very ably suggested by Mr. Stephen—that of a man who is proved to possess a delusion upon a certain point, namely, that he has a glass finger, but yet is proved to have done a rational act in a manner not connected with that delusion. Suppose, for example, it could be shown that that delusion was of recent growth; that the mental disorder from which it arose was of recent growth; that before any symptoms of it were developed, he had been actuated by an enmity against a certain person, had formed a design of murdering him, and had carried out that

design in what might be called a rational manner: that is, with forethought and combination. I understood my learned friend, Mr. Stephen, to say, that would be a rational act rationally done; that it would be a case in which a madman was competent, and might be convicted. [Mr. STEPHEN: I only said that is evidence to go to the jury of his guilt, and very strong evidence.] I would suggest, that although it might be admitted that the act was done with combination and forethought, and by the use of such means as a rational man would use, and by the presence of such motives as those by which a rational man might be actuated, and in pursuance of a scheme which a rational man might form; yet if it can be shown—I do not say it can be shown—but if it can be shown that the delusion of that man was connected with the control of that man's will, so as to prevent him any longer having the power of controlling that impulse, which, but for that delusion he might have been able to control, then, I say, that is a case in which he ought not to be convicted. Civil cases appear to me to be somewhat different from criminal cases. There is no doubt that in civil questions—for example, with regard to the power of making a will, judgment must enter into consideration. If, therefore, I am right in my view, the criminal responsibility, supposing there be no actual delusion affecting the act itself, depends not on the knowledge that a man has of the nature of the act, but simply in the power of control of the impulse; then it will follow, that the consideration of competence in civil cases is subject to different considerations from that of the question of responsibility in criminal cases. But even in civil questions we must apply, though in a different way, the great principle, that all the law does is to lay down conditions of competence, which, in civil questions, are mainly judgment and power of controlling an impulse, and that even any plea founded upon mental weakness or mental defect, which may be brought to traverse that competence, must rest on the principles of competence applied and appreciated with reference to the case.

Mr. W. TALLACK: With regard to the principle which has been laid down in courts of justice as the rule for distinguishing when a man is criminally responsible—whether the criminal has a knowledge that the act he has done is right or wrong, and of the legal punishment that will follow—it has been remarked by Professor Laycock, a gentleman well known and respected in this city, that on that principle the free government of every lunatic asylum is conducted. Gentlemen who know anything of the management of asylums, know that upon that principle of a large amount of knowledge of right and wrong being possessed by the inmates, the whole government of such institutions is based. Mr. Stephen explained verbally, that the test of whether the power of the judgment was exercised by criminals or not, consisted in their power of drawing inferences. Now rather an apt illustration occurs to me on that point. When, many years ago, York Minster was attempted to be destroyed by fire by the lunatic, John Martin, the conductor of a lunatic asylum in Yorkshire had a discussion on the subject with some of the inmates of the asylum, and they drew the inference that the man would not be hanged, "because," said they, "he is one of us." The time has come for some alteration in the state of the law with reference to insanity. There are most undesirable collisions happening over and over again in our courts of justice, and such being the case, the question demands legal consideration and revision. I earnestly hope that this discussion will be the means of directing increased attention to this subject, until a remedy is found for these two generally admitted evils. The collisions between the highest medical and the highest legal authorities of the country, and the great danger, at times, of the terrible judicial cruelty of putting poor creatures to death for things which are as much disease as if they had been born blind or lame.

Canon TREVOR: As allusions have been made to my remarks, I hope I may be allowed to say, in one sentence, that I never contended that there was no such thing as insanity, or that medical men were not the proper judges of insanity. What I contended was that the question of moral responsibility was to be judged of by law, and the evidence of the medical gentlemen as to insanity, and that the medical gentlemen should not be allowed to override the decisions of the law and the legislature, and pronounce for themselves on the very existence of criminal responsibility. And then, with respect to the distinction between knowledge and will, my argument was that a man's not knowing, not being able to know the

distinction between right and wrong is insanity: but that when he does know it, but is not willing to do it, that is wickedness. And as medical gentlemen do punish lunatics in their own asylums—and they could not do it if they were not responsible—they have no right to object to their punishment by the law when they are found responsible at the tribunals of the law.

Mr. STEPHEN: I would now make a few remarks in reply to the observations which have been made in the course of the discussion. And first, we have not had one single speaker who has suggested that the law ought to decide any other question than that which I have said it does decide, or tries to decide as well as it can. We have been addressed by those who disapprove of the law strongly, and think that considerable practical injustice is done by the state of the law: and we have been addressed by those who approve of it rather more strongly than I do myself; but neither side—taking Mr. Neate as representing the one view, and Canon Trevor as representing the other view—no one has said that another question should be decided by law which is not at present decided by law, according to the lights which lawyers have, as well as it can decide it. No doubt lawyers might be able to do justice much better, and they would do it much more to the satisfaction of the public, if they had a greater amount of medical and physical knowledge. And I may say also that juries would do much better if the general level of education were higher than it actually is. But we must take these things as we find them. And suppose you had a perfect judge, and a perfect Bar, and perfect juries,—and that these perfect persons were still occupied in trying persons for murder, which is not a very likely thing, I do not see that they could entertain any other questions than these three—Did he do it? Did he know it was wrong? and, Could he help it? The different speakers who have addressed you have suggested no other questions to be determined; and Mr. North, with every word of whose paper, except some slight misconceptions with regard to the law, I cordially agreed, and who informed me that he very cordially agreed with very nearly all I said—Mr. North does not suggest any other question to be determined than the questions I submitted. That being so, where is the difficulty? We have been told by Mr. Tallack and by others of direct antagonism, and collision, and dissatisfaction, and danger of cruelty; and amongst other things there have been bitter and grievous complaints about cross-examination. Well, now, as to the direct antagonism and the collision and so forth, I would say, —does it arise from anything else than from the fact that the public at large, and the medical profession in particular, have not taken the trouble to make themselves masters of the very simple principles of law which the law actually enforces? My friend, Mr. Westlake, whose speech has saved you some time and me much trouble, pointed out with perfect propriety one very good feature of the law to which I ought to have drawn attention—namely, that the law is elastic, and that, from the manner in which these questions are stated, it holds itself open to receive any amount of information which scientific inquiry may be able to afford. Now it was said in Mr North's paper that the law had been administered as it stands since 1814. It has been administered as it stands at present since 1726. At least, I can quote the case of Arnold, in which the law was laid down by a judge of that day precisely as it has been laid down by judges of the present day. The difference between the state of knowledge in that time, about a hundred and fifty years ago, and the state of knowledge as it is at the present, is as great as it is possible to conceive; yet the same principle has been applied throughout. If a man accused of crime did not know what he was about, or if he could not help what he was about, if you show either of these things, then there is an end of the question. The law admits any evidence, however strange or unexpected—however remote from ordinary experience it may be—any evidence whatever from a man of science which will tend to prove that the man did not know what he was about, or that, knowing what he was about, he could not help it. What could the law do more? Then we had some remarks about cross-examination, and they reminded me—although I do not mean the comparison in an uncomfortable way—of one of Sydney Smith's reviews, in which there is a remonstrance by some parts of the animal creation to this effect: "Try whatever remedies you please, but for heaven's sake don't use a small tooth-comb." And in the same way the medical man says, "Do what you like; have experts, additional jurors, supple-

mentary judges, limited references, anything and everything, but don't ask me to say what I mean precisely." Now I say it in the presence of the most skilful cross-examiner who ever displayed his talents in York, and that is saying a good deal, "Is it possible to upset a man who thoroughly knows his meaning, knows his facts, and states his meaning in simple language?" If it is, I can only say I wish some man would teach me how to do it. I would say, that if a medical man really knows what he means; if he has a distinct idea in his own mind, and is quite sure of his own facts, and comes into a court of justice, and swears to them in the common language of ordinary life, he may be cross-examined by the whole of the bar of the Midland Circuit, and they won't shake him one jot. And why not? Because the only way in which they can shake him, is by showing that he does not know his own meaning; a very unpleasant thing, but a thing which it is sometimes very necessary to do. I know that it would be exceedingly satisfactory to medical gentlemen not to be cross-examined; but just in proportion as they feel it to be unsatisfactory to be cross-examined, in that proportion they ought to be subjected to it. I would submit, in illustration of this point, a very little practical experience which happened to myself very early in my career. As I got up one day to commence to cross-examine a medical gentleman, having been only about a year at the bar, I heard a preternaturally sharp attorney's clerk say to his neighbour, "Now you will see him turn him inside out in two minutes." I thought at the time, "I wish I knew how to do so." But I made the attempt, and in about two minutes the witness turned me inside out, and completely proved his case, because he knew what he was about, and knew what he had to say, and said it. So much for the practical part of the question. And now let me notice shortly a few of the remarks made in the course of the discussion. With respect to Mr. North's able and interesting paper, I have merely to say, that again and again he admitted that the question was, "Whether a man knew what he was about, or could control his actions like other people?" But then he says, "It happens oftener than you think, that the power of controlling your actions is really destroyed by what an ordinary person would not suppose did destroy it. You think it a small thing to see a man's mouth twitch; you think it is a small thing that a person supposes that he is being persecuted, or that he is the object of some degree of enmity; but I, being accustomed to these things, know that these are not small things. I know that these facts are an indication of a state of the brain, which as effectually prevents him from controlling the motions of his own limbs, and destroys his power over his own actions, as if he was grasped by a stronger man than himself, who used him as a tool." Now I say that may be all true, but the law, as it stands, will give full effect to that fact when it is proved; and when a medical gentleman comes before a court and says, "From the facts stated, I draw the inference that he cannot control his actions," it will be a very rare kind of cross-examiner who will be able to shake that assertion. There was so much unanimity between the different speakers, that no one appeared to agree with me so much as those who differed, except those who agreed with Mr. North. Canon Trevor carried my views even further than I did, because he would not admit the possibility of a man who knew what was wrong, being deprived by physical causes of the control of his will. [Canon TREVOR: I admitted physical causes, but not moral.] Most of you heard Canon Trevor's forcible speech, and in what he said on that subject, he seemed to maintain, that whoever asserted that a man who knew perfectly what he was about, was deprived of the power of will to direct his actions, was in danger of materialism, and was on the high road towards it. For my part I regretted that expression. I always do regret such expressions, because, as we all know, it is the most familiar of commonplaces. No one would admit himself to be afraid, and Canon Trevor would not be afraid of truth, whatever that may be, or of the result of scientific investigations, whatever they may be. That being so, I am sure Canon Trevor will not suppose I mean for a moment to deny the spiritual and individual character of the soul—that, of course, we all admit; but admitting that, we all know, upon the other hand, that the mind in all its actions, in every act that it does, has invariably to make use of material means in order to effect it. There is probably not a thought that passes through the mind, which is not accompanied at the moment by some modification of some part of the brain. There is not an image which appears to

the imagination, without some corresponding movement amongst those minute atoms of which the brain is ultimately composed. There is not, in fact, a single state of feeling which can be present to the mind which is not affected, and, so to speak, translated into some corresponding state of the brain and the nervous system. Now that being the state of things, the same would be true with regard to all acts of the will. I am not able to lift my hand, without some modification of some material particle or other corresponding to it. Suppose that be so, what a wide field is opened there for the existence of that very incapacity or infirmity of will, which Canon Trevor appears to consider to be impossible. [Canon TREVOR: Pardon me, but if you speak of any physical cause affecting a man's will I am willing to admit it, only I want the physical cause proved by evidence. But when you come to this, by means of a man brooding in his own mind over a particular action, there shall arise in him this incapacity to do his duty which he knows, then I say these things are wickedness, and ought to be punished.] I agree with every word of that explanation. There is a want of will which is immorality, and there is a want of will which is disease. There is not the least doubt that if a man, by long brooding over a particular sensual gratification, were to excite in himself so strong a determination to enjoy it, that he was physically incapable, at a particular moment, of withstanding it, that man would be guilty legally, physically, morally, and any other way. [Canon TREVOR: They say he is not so medically.] Well, I say that I consider such a man as guilty as any person can possibly be. And not only so, but I consider that, as far as the scale of vice is concerned, he is more guilty than a man not given to dissipation. I may here refer to the case of Dove, who was tried in this city. I have, from particular reasons, carefully studied that case from the original notes of Baron Bramwell, and it is perfectly clear to any one who reads that story, that Dove, from various vicious and hideous motives, in his own mind had brooded over his wife's death, and longed for it, and realised it in his imagination for a great length of time, and having got his mind into that state, he went and committed the act with the most hideous atrocity which it is possible to conceive. [Canon TREVOR: And I may tell you, that it was upon that trial that that evidence was produced, and strong objection to cross-examination was made by those very gentlemen to whom reference has been this day made.] I was not present at the trial; but with regard to that case, I say that Dove was as guilty as he could possibly be. But, on the other hand, I can well imagine that, in the infinite subtlety with which the brain and the nervous system meet together, cases may arise in which what may be sometimes moral vice becomes disease; and I think it would be hard upon medical men, if they were obliged to specify in detail the particular diseases which may have produced effects to which they testify: if they were obliged to say such and such filaments of the nerve are untwisted, such and such atoms of the brain are untwisted. They cannot say that. You cannot call upon a man to say that, but you can and should ask him, "Can you say, as a medical man, that the case is one in which medical treatment would have removed such symptoms and prevented that event? Is that a case which you can treat medically; which presents symptoms which can be removed by medical means?" If it is, there you have disease and not crime. I am sure the question is one which ought to be considered by the law, and I have not heard anything to-day which has led me to alter the opinions I have expressed in my paper. Now the remarks of Mr. North on that subject were based on a misconception as to the law, and I must attribute the misconception into which he appeared to fall, to his assuming that the law, as it now stands, is what was declared in MacNaughton's case, that the only way in which you can make use of the fact of the delusion, is by considering the delusion to be true, and then considering whether in that view the act can be justified, or not. That I consider to be a mistake. I consider that there are two ways in which, as the law stands, you can make use of delusion. In the first place, you may suppose it is true, and ask if on that assumption the act is justifiable; and if the delusion is true, and the act justifiable under the delusion, then there is an end of the case. But you can use the delusion also as evidence from which the jury may infer that there was a loss of power in the will, or that there was a general confusion of the faculties of the mind which prevented the man from

drawing such inferences upon the subject as a sane man would draw. If you see a delusion in a man's mind—say that a man thinks his fingers made of glass—you are to consider what that shows as to the general state of his mind. First of all, does it show that he is unable to argue correctly upon other subjects, that is, that he is unable to take what you may call a sane normal view of other circumstances? That is a pure question of fact for a medical man to testify to. A medical man, for instance, may say, "I have observed that when a person is under a delusion of that kind it affects more or less all his mental operations." Or he may say, "I have observed that it leaves a considerable part of his mental operations altogether unaffected." Well, if it is so, that part which is unaffected is just in the same state as the corresponding part of a sane man; and it is a pure question of fact which way it is. Something has been said of the unity of the mind, how the mind is one and indivisible. That is quite true; nobody denies it. But then the operations of this unity are multiform, and perfectly divisible in thought. You can conceive perfectly well of imagination as a separate act, of understanding as one act, invention as another act; and it may be that the particular part of the brain which the mind uses in imagining is out of order, while other parts are sound—that a man may conceive soundly, and imagine unsoundly. Or it may be that when the brain is once injured, all the mental operations are more or less disturbed. That is a question of fact, as to which medical men ought to give their evidence, and from which the jury ought to draw their inferences, always with a certain leaning to the merciful side. Now, seeing that we are all in a difficulty, that here is a very obscure matter, slightly understood, and much discussed, we must meet the difficulty somewhere. There must fall upon somebody or other the very difficult task of deciding this question. I say the difficult task now falls upon that body which, according to the constitution of this country, is called upon to decide questions of fact, namely, the jury. Suppose it is a bad body for that purpose—I do not say whether it is or is not—but if it is a bad body for that purpose, get a better. But whoever is to decide questions of fact will have to decide that question, which must be decided by the judge of fact, acting upon the information which may be given to him by particular persons. I must say that I think a good deal more has been said than it was quite necessary to say upon the unsatisfactory condition of the present law. It has been my fortune to see a considerable number of cases tried, in which the question of insanity more or less came into consideration, and I cannot say that I have seen that kind of conflict which has been mentioned, between legal and medical persons. Now, for instance, in the case of George Townley. That case was supposed to be somehow or other discreditable to the law; yet it appears to me that it was the simplest case in the world. The man was said to be mad, and the jury thought he was not mad, and that really was all about it. There was no conflict of testimony, no abjuring of the medical witnesses. One was called, Dr. Winslow, who gave his evidence in a straightforward way. He was asked two or three simple questions, and he gave his answers; and upon that evidence the jury said, "That is an act which we consider a sane and straightforward act, although you may consider that the man had some disease and mental excitement upon him, we think that at the time when he cut the young lady's throat, he knew well what he did, and did it deliberately of his own free choice." It is not my business to say whether they were right or not in their decision; but how else could the thing have been settled? You must have had somebody to answer these questions; and when the proper authority had answered them in one particular direction upon such evidence as is brought, what else is to be said about it? I never could see how the fact of a medical witness giving evidence to which the jury could not agree can be called a collision between medical and legal authorities. [Canon TREVOR: The collision there was afterwards, when the doctors rescued the man from the law.] Well, that has a great deal to do with the wording of a particular Act of Parliament, but that is a very small matter now, with which we have here nothing to do. The wording of the Act of Parliament was such that he was enabled to get an advantage, and he got it. I have nearly finished all I had to say, but I may refer to one or two remarks made by my friend Mr. Neate, who spoke in a very kind way of my paper, but in a very unkind way of the law of the land, and said that the judges were ashamed of it, and that it was apt to be very cruel, and all manner of things of that kind. But Mr Neate

after saying that in various forms of speech, when he came to the point, "Well, what do you want? What should be done?" he said, "I am not prepared to make practical suggestions." He said it was a very difficult question, and he thought that the best thing would be to add four doctors to the jury; and it was not much to matter whether they agreed with the other twelve or not, so far as I understood. The four doctors were to be added to the jury instead of being called as witnesses and cross-examined. But still I come back to this,—when you get your four doctors and your twelve farmers, what are you going to ask them to say? You can ask them nothing but what you ask now, namely, "Could he help it?" and "Did he know it was wrong?" If you can vary the question to be tried well and good. [Mr. NEATE: The question is, "Do you acquit him on the ground of insanity?"] It would have been a great pity if this discussion had ended without a little bit of special pleading put into it. I do not use the phrase offensively, because I think special pleading a great instrument for the investigation of truth. My friend, Mr. Neate, says I was too technical in the first place, and not correct in the second place, because insanity did come into issue in this way that the jury have to return a verdict of not guilty on the ground of insanity. Well, in form that is quite true, but in fact when they have to return that verdict what they have to return is, "We find him not guilty on the ground that he was of unsound mind—in the sense in which the law explains unsound mind—that is to say we find he is not guilty because we find that that which the law calls mental unsoundness was part of this act." [Mr. NEATE: But they are judge of law and fact, and they may not accept the explanation.] That is the old story. If a jury happens to take Mr. Neate's view of the law you cannot help it. A juryman may take the law into his own hands if he likes; but I say that he is bound in conscience to take that explanation of the insanity which the law gives him. In the same way when a man who is about to be tried for an offence pleads insanity, what insanity does he plead? The judges will say, "Do you think this man knows the nature of the proceedings sufficiently to be able to take a rational part in them?" There is no other way in which the word is used; and it is in that way, and that way only, in which insanity comes into issue. Mr. Neate made some remarks about the case of Cartwright, the woman who was taken out of a straight-waistcoat to make a will. He said it was a monstrous case; and I daresay it was a monstrous case. I daresay when the judge decided that case he drew a wrong inference; but whether he drew a right or wrong inference he had the proper question before him and stated it properly. There were one or two remarks—especially one or two which fell from Mr. Westlake—which appeared to me so important that I must notice them. Mr. Westlake said that I had laid down will and knowledge as the two legal limits of competency; and then he said that I did not fully define what I meant by knowledge. That is quite true. I did not because I could not. I do not think that it can be defined otherwise than in very general terms. That is to say there are certain mental processes—you cannot put them on paper—but there are mental processes which are sane which a medical man would call normal and others which are abnormal. There are things which present themselves to the mind in a sound state, and things which indicate unsoundness. A man wants a thing, and he does this or that in order to get it. There are millions of acts and thoughts which are what you call rational acts and thoughts, and others which are extravagant and irrational, and which you therefore call insane. Now of course you cannot make an exact catalogue of them, and say in what cases a man is thinking like a sane though mistaken man, and in what cases he is thinking like an insane and diseased man. I can imagine a man who is not as good a mathematician as Mr. Westlake thinking extremely wrong of the differential calculus without the smallest touch of insanity, and I can imagine Mr. Westlake himself, if his brain happened to be upset, to make a mistake, although acquainted with the subject; and although that mistake may be far less important than the other, the one mistake would be a proof of insanity, and the other not. It is impossible to lay down a general rule, and say what thoughts are sane and what are insane, although the distinction is one on which you can pronounce an opinion. I agree with Mr. Westlake that the agent's opinion of the morality of the act is perfectly irrelevant. I may think it is very right to pick your pocket, but the law thinks it is very wrong, and it is the law which decides whether it is right or wrong,

and not I. But now, to return to the case of Townley. He had persuaded himself into the notion that it was an act of righteous justice on his part to kill the young woman whom he killed. That was no justification at all, if he had argued himself into that opinion from false notions of morals and religion. It was an excuse if physical disease produced it. And the question to be considered always is whether this aberration from truth is a sane aberration from truth, or whether it is an aberration produced by disease. And when I speak of knowledge being essential to crime, all I mean is that the man's thoughts upon that subject matter were of a sane and normal character. I cannot put it nearer than that. It is somewhat vague, but that is all that can be said upon that subject. All I would say upon it is, that what is required is, that you must consider that the whole process has been sane and normal throughout. I think that the question, "Did he know it was wrong?" means more than "Did he know that the law would punish it?" I think it means, "Was he in a state of mind in which he was able to understand that other people disapproved of the action?" I do not say that he disapproved of it himself, because the case of the Thug may be put, in which a man may not disapprove of the act; but the Thug, although he may think it proper, would not be very much surprised if a man stronger than himself were to punish him for his conduct, and that would show that he knew perfectly well that the act was wrong and condemned by others; and that sort of knowledge is the knowledge which the law requires as to the nature of the act. He must see the act, together with its circumstances—its moral, and physical, and other relations—as you and I see it. The question is, "Did he see the act in the sort of light in which ordinary men see it, or did he not?" I know the difficulty of the question; and the vagueness of the terms in which I have been putting it, but I do not think that in practice you can get nearer to it. In conclusion I would say, that the public do not know of the ordinary cases of trials where insanity comes into question. There was one at the last Lincoln assizes which was over in ten minutes. In that case the offence had been committed by a man who had been an epileptic patient. I remember of another case, in which a woman drowned three of her children in a cistern, under the notion that God had told her to do so. She had been previously a well-conducted woman, and physical causes explained how the delusion had arisen. She was immediately acquitted. I have known a similar result in cases scores of times. The cases which give scandal are difficult cases, and the public happen to hear of these difficult cases, and they are apt to think that the law is wrong, because they only hear of the cases in which it is difficult to apply it; and that, I really think, is the essence of the whole subject.

Mr. North: I think Mr. Stephen has either somewhat mis-stated the doctrine of the law on this subject, or else I want that power to comprehend language which belongs to most educated men. I have listened to statements of the law on this question in our own courts over and over again, and they have always been to this effect, that if a man knew the nature and quality of the act he was doing, and if at the same time he knew it was wrong, he was responsible and ought to be subjected to all the penalties of that act. I have heard that stated, pure and simple, without qualification, in the law courts of this city, and I have never heard it controverted that that is the doctrine of the law. I am delighted to find that Mr. Stephen says it is also the law that the man must have the power of not doing the act. If that is the law I am satisfied, but I have not so read the law, and I have not so read the expositions of it by learned judges on this circuit. What we contend for is that there is such a disease as moral insanity, arising from disease of the structures of the body, and resulting in acts which are totally distinct from any act which we term vice, which is a wilful and deliberate act, in which a man weighs all the consequences. He may not weigh them rationally and well, but he knows them well; and he knows that he has pursued the course of vice designedly; whilst an insane man does an immoral act because he has lost the power of controlling his conduct, because the imperious appetites have got possession of him. His reason is impaired, and thus he becomes the victim of his instincts, his reason and his will being in abeyance. All we contend for is that there is a marked distinction between moral insanity and vice, and that no medical man can confound the two if he had experience of either.

CAPITAL PUNISHMENT.*

In addition to the papers on this subject by Mr. Beggs and Dr. Markham, printed at pp. 213, 225.

Mr. NISSEN, Sheriff of London, read a paper, in which, while not giving an opinion on the abstract question, he said that from personal experience of capital executions he believed they exercised little terror over the minds of the criminals, and no deterrent effect on those who witnessed them. If the punishment of death was to be continued, he thought the gallows should be erected in an enclosed yard, to which the public might be admitted indiscriminately till the space was filled, the execution performed in presence of the authorities and of those who had gained admission, and the criminal convicted of murder thus suffered to appear in the world no more, either alive or dead.

DISCUSSION.

Mr. ELLIOTT: The question has been discussed in this country for about forty years, and during thirty-nine of these years nothing new has been said upon it, and it is just one of those subjects upon which nothing new can be said. Talk as you will, the question comes back to some two or three stern and invulnerable principles of human nature. When a man lifts up his hand against the life of another, the voice of nature—which is the voice of something very great above—declares that he who did the deed of blood shall be destroyed. You may try to ignore the sentiment of vengeance, but you may just as well attempt to tear the sun from the firmament, as to tear the righteous, holy, and divine sentiment of vengeance from the human breast; that sentiment is part of man's moral nature; and therefore you need not talk of secret punishment, because the whole sentiment of vengeance of the English people would rise up at once and say, "If it be possible, we will see with our own eyes the deed of retributive justice done upon the criminal." The whole argument of Mr. Beggs is just this, that capital punishment is not perfect; but what is there that man does that is perfect? The commission of so many murders per annum, in the face of the dreadful penalty of the gallows, shows that there are some people who will risk the gallows, who lay their schemes so deliberately, and with such exquisite care, that they calculate they will escape the gallows, so that the calculation of the chance of escape is stronger than the fear of punishment. The number of cases of murder which occur every year only prove that capital punishment does not operate to the absolute annihilation of the offence. Those who maintain that capital punishment does not deter from crime and does not save lives of innocent people, because there are many cases in which it fails, might with just as much good sense go into the operating theatre of a hospital and say there should be no more surgical operations, because out of so many amputations so many die. They might just as well do away with the whole practice of medicine because sometimes a patient dies. We all know that if they did not call in the aid of the physician a much larger number would die; and so, if we did not call in the aid of this terrible physician, the righteous execution of the law, a great many more virtuous and innocent lives would be sacrificed. Capital punishments do in fact deter. I could prove from statistics in my possession, that Mr. Begg's argument is wrong. I remember going over the statistical tables with regard to crime a few years ago: and I took a period of thirty years, ending with the year 1857. I classified those crimes which used formerly to be punished by death; and whether I divided the thirty years into periods of ten years, five years, or three years, this result came out, that up to the end of 1857 crimes of dreadful violence had increased in proportion as, either by the law, or by the diseased pressure of public opinion, the punishment had been relaxed. Murderers have not been executed with the same

* See *Transactions*, 1857, p. 285; also *Transactions*, 1859, p. 487.

strictness of late years as they formerly were, and the consequence is, that the crime of murder increased during the period to which I have referred. Another crime which used to be punished by death—but to which I will not now particularly allude—had, during the thirty years, increased 147 per cent. Arson had almost enormously increased coincidently with the mitigation of punishment. These anti-hanging gentlemen talk a great deal of forgery, and they say that forgery has not increased since the punishment of death for that offence was abolished. How do they know that? It is a gratuitous assertion. Bankers, solicitors, and others, will tell them that the crime of forgery has enormously increased within the last ten or twenty years. The facts of the case, therefore, are against the advocates for the abolition of capital punishment. Something has been said as to the conduct of the spectators at executions which I consider to be a libel on thousands of my fellow countrymen, who though in humble life, and having rude manners and a rough dress, are not the people they are described to be by Mr. Dickens and by newspaper writers. Collect thirty thousand people together, and keep them waiting about for many hours, and levity will break out among them; they will relieve the tedium of those long hours by jokes not to our better educated ears of the most seemly kind. Collect ten or twenty thousand people wherever you will, and they will have a certain proportion of a bad sort who will make use of the occasion to be blasphemous, to be violent, and to ply their trade of robbery. But that is not a fair and honest picture of the thirty thousand people who were collected together at the execution of those five most righteously executed pirates; that was not the conduct, notwithstanding the testimony of Mr. Dickens, of the twenty thousand people gathered together to witness the righteous execution of the two Mannings. The great mass of the people were seriously and solemnly impressed with the law that was about to be executed before them; they all felt that righteous retribution was about to be done, they felt solemnly that human life was taken away most properly, and the last thing present in their minds was fun, folly, and frivolity.

Mr. Holland: I deny *in toto* the truth of the proposition that execution for murder is holy and divine, and should be done before the world. Does not everyone feel that it is a most unholy and revolting sight, and that it would be the worst thing he could do to take his wife and children to witness the spectacle? I deny that it is necessary to the safety of society that murderers should be executed, one of the chief objections to capital punishment being that it diminishes the sanctity of human life and the security against murder. No doubt the punishment of death, when immediately impending, is very dreadful; but it is altogether a mistake to suppose that the fear of death as a remote contingency is a powerful deterring influence. We can point to many cases in which men have no fear of death when they have a chance of escape,—as, for instance, volunteers for a forlorn hope—and the murderer, when committing the deed, does not expect to be detected, and so the fear of the punishment of death has no deterring influence upon him. I believe that the abolition of the punishment of death for any offence has not increased the number of offences. If forgery has increased it is because there are now fifty times more opportunities of forging than formerly, in consequence of the increased trade of the country. When forgery was a capital offence comparatively few of the offenders were prosecuted; but the best proof of the fact that forgery has not in reality increased is supplied by this circumstance, that there is now no increased feeling of insecurity on account of the prevalence of the crime; neither is there the slightest evidence for the statement that arson has increased on account of the abolition of the punishment of death for that offence, and it is exceedingly improbable that it has done so, because it is not the severity but the certainty of punishment that prevents crime.

Dr. Waddilove said that the day was far gone, and he hoped it never would be revived, when the *lex talionis*, or the law of vengeance, should be any part of our law. He thought this question resolved itself into three simple propositions,—1. Has society a right to take away the life of a man who has committed murder? 2. Is it right, and for the interests of society, that that should be done? and, 3. If it is done, has it a deterrent influence? He maintained that society had a right, when one man took away the life of another, to take away that man's life,

not in the spirit of vengeance, but as a protection and as a punishment which ought to follow the commission of the crime. He thought also that it was expedient for the protection of society to punish murder by death. There was no analogy between the case of a forlorn hope and a man sentenced to death, as they all knew that many men came safe out of a forlorn hope and secured promotion. It was not the want of a fear of death but the desire of promotion that induced the man to volunteer. It was certainly the fear of death that induced so great an anxiety on the part of men sentenced to death to get their punishment commuted to one ten times worse—that was penal servitude for life. As to there being no deterrent influence, he went with a gentleman now present some years ago to see an execution, and though there was a certain amount of levity during the time the crowd were waiting, yet all was hushed from the moment the poor fellow was brought out to be hanged. Every hat was taken off, and from the behaviour of the crowd he was satisfied that they went away with feelings suitable to the occasion, and deeply impressed with what would be the consequence of committing murder. He was of opinion that executions ought to be public, in order that they might make their full impression upon the public mind. As to the unwillingness of juries to convict in cases of murder, he thought that might be obviated if we were to introduce into this country the verdict of "guilty with extenuating circumstances," as such a verdict would not be followed by the punishment of death.

Dr. Pankhurst said, he would maintain that capital punishments ought to be abolished upon this single principle; that no law could be efficient which was opposed to the public sentiments of the community in which that law operated—the moral convictions of the community were so averse to the application of capital punishment to crime that the law was no longer a security to society and a protection to life. The deterrent influence of the punishment of death was greatly mitigated by the chances which the murderer had of escape owing to the uncertainty of the punishment following the crime.

Mr. Wingfield thought the time had not arrived when capital punishments ought to be done away. He felt quite certain that the punishment of death had deterrent effect to a large extent with the great body of ill-disposed people, who could only be influenced by their fears. Many a man would not care for penal servitude who would shrink from the commission of a crime which would be punished by death.

Dr. James Walter Smith: None of the gentlemen who have spoken have told us on what grounds they conceive that capital punishment has deterrent effects. One would imagine that if capital punishment had been deterrent we should have found that murders had diminished of late—one would have imagined that we should have seen fear on the part of those who were on their trial for murder, regret and terrors on the part of those who were convicted for murder, and confidence on the part of the public, who knew that the most deterrent influences were at work in order to preserve their lives and their property. But all these are wanting. The fact is, that capital punishment has not a deterring influence. A man does not think of the punishment when he is about to commit a crime, or if he does think of it he has confidence in his own luck. Every man has confidence in his own escape from danger, and it is that which explains the readiness with which men go into a forlorn hope. They do not calculate the chances, but believe in their own luck. So in the case of a man who commits the crime of murder—he believes in his own luck, and even supposing the luck tells against him, there is the distinction which he acquires on being convicted and brought to the foot of the gallows. He acquires the only kind of distinction open to him, and when at the gallows he has an assembly of thirty thousand people gathered to see him die. I think it is plain that capital punishments prevent convictions, and induce perjury in the witnesses and the jury. Then we have the experience of the influence of public executions in other kinds of offences. There was a time when if a man stole five pounds and a penny he was guilty of grand larceny, and liable to the punishment of death. The consequence was that it was a matter of extreme difficulty to get a conviction for grand larceny, and property was very unsafe. At the very foot of the gallows where men were hanged for grand larceny, the offence of grand larceny was committed. There was a time when the greatest

fears were expressed that if the punishment of hanging for the offence of grand larceny were to be abolished property would be rendered more unsafe. The punishment was abolished, however, and those fears were never realised. But there is one argument against the punishment of death, which ought to every humble minded man to be conclusive, and that is, that the punishment is irremissible. Our proceedings being human must be imperfect; and law being imperfect must add to the imperfection of all human proceedings, and before the time necessary to enable us to see our error has elapsed, the punishment is inflicted which it is impossible to remit. We may find out the mistake, but not till life is irremediably gone, and that at the instance of the law, which ought to be the great teacher of rectitude and justice.

The Rev. Mr. Hutton said he had been chaplain of a jail for ten years. At Northampton, a few years ago, a person was sentenced to be executed, and it was arranged by the under-sheriff and himself that the public should not be informed of the time of the execution. The idea got abroad that the execution was to take place on a certain day, and on that day, which happened not to be the right day, about fifty thousand of the ragamuffins of the surrounding villages and towns poured into Northampton, and it was a shocking and melancholy scene. The time fixed for the execution was eight o'clock in the morning, and the erection of the gallows was not commenced till about three o'clock. As the time for the execution was not known beyond the town and the adjacent villages there were only about ten thousand people there, and they behaved in the most orderly manner. On that occasion there was a woman, the wife of a labouring man living in a village about twelve miles distant, so anxious to witness the execution, that she actually came and took lodgings in the town in order not to miss it. She did witness the execution, and strange to say, at the very next assizes the same woman was tried for wilful murder. She was charged with poisoning two of her children, one six and the other eight years of age—the charge was not brought home to her, but many had no doubt of her guilt. He would be glad if he could satisfy his mind that capital punishments ought to be abolished; but he must confess that at present he had great doubts. He could not help thinking that the execution of the murderers in the case of the *Flowery Land* would operate as a warning, not only to sailors connected with our commerce, but throughout the world, so far as they were acquainted with the case.

Mr. Neate, M.P., wished to call attention to the position to which this question had been brought by the appointment of a royal commission. The point which suggested the appointment of that commission was that difficulties and doubts had occurred as to the infliction of capital punishment. There was, in the minds of many people, a desire to get rid altogether of the punishment of death, and even among those who were unwilling to renounce it altogether, there was a sense of the difficulty of applying the punishment in many cases. The point, therefore, now more especially before the public, was whether any distinction could be made between the worst cases of murder, in which there would be an almost general concurrence in the punishment of death, and those cases in which the punishment could only be inflicted with a great violence to public feeling. The difficulty was increased by their having no proper tribunal to make a distinction between those two classes of cases; and it would be very difficult, unless they could find some way of distinguishing between those two cases, to get proper and competent men to undertake the painful duties of Home Secretary. [Lord Brougham: To make the distinction you suggest would make the execution of such sentences uncertain.] The result must be that they must either take a great step backward, and inflict capital punishment in all cases of murder, or else they must get rid of the punishment of death altogether, or find some rule for distinguishing between the worst cases, and those that might seem to admit of another punishment; and they would also require to find a proper officer or tribunal to apply that rule. With regard to the minor point of public executions he felt less difficulty in offering an opinion. He thought that when the time came when the people of England could no longer look upon a public execution, the time had also come for doing away with it. He thought that the exemplary character of the punishment—if it was to be maintained—depended very much upon its publicity. He was Dr. Waddilove's companion on the occa-

sion to which he referred, and he entirely concurred in all that Dr. Waddilove had said as to the conduct of the people. Whatever might be the conduct of the worst people among the crowds who were present at executions, he believed that the general feeling among them was that they had come there to testify by their presence their approval in a great act of human and divine justice. He thought a strong proof of that was given in the case of Wright, in which the people did not go to see the execution because they did not think the man was rightly executed. [Lord BROUGHAM: I believe that 999 out of a thousand of those who go to a public execution go there from no feeling whatever but from mere curiosity, and to see a sight.] He confessed that when he was present at an execution, so far from thinking himself a better man than the people, he thought they were better than himself; because he lost his detestation of the deed in his sense of horror at the sight and of pity for the criminal, while the people did not lose their sense of detestation of the crime. [Lord BROUGHAM: In Wright's case the man was hanged after being hurried in his defence. I think he ought not to have been hanged.] They must not look merely to the victim or the spectators, but generally to the public at large. It was very desirable that so long as executions were continued they should be brought as prominently as possible before the sight of the governing classes of the country, that they might know at what price life and property were being preserved; and if, instead of the executions in London being hurried over at eight o'clock in the morning at the Old Bailey, the men were executed in Palace Yard in the presence of both Houses of Parliament, they would not have that atrocious act so long prevailing as it did.

The Rev. Mr. THOMSON, Chaplain of York Castle, had come to the conclusion that there ought to be no capital punishment. He stated this conclusion from his own observation of the characters of people who had been brought out for execution; and he felt assured that no person who had come under his observation had been able to realise the awfulness of the death he was about to undergo. He was far from thinking that public executions would deter anyone from the crime of murder. He was perfectly persuaded, from the cases which came under his observation, that the fear of the punishment of death never came into their minds at all; and he was convinced that if capital punishment were abolished they would not find an increase of the cases of murder. Capital punishment had been abolished on the continent to a very great extent. It had been abolished in some parts of America; it had been abolished in Lisbon; and if it could be shown that the abolition of capital punishment had been followed with advantages in those countries, surely we ought to follow the example of those countries. [Mr. HASTINGS: Can you produce any statistics showing that in those countries where capital punishment has been abolished, murders have decreased in number?] I have not got them here, but I believe they can be produced. [Mr. TALLACK: They were produced in the recent debate on the subject in the House of Commons.] That is the ground upon which we stand, that the cases of murder have diminished in those countries where capital punishment has been abolished. [Lord BROUGHAM: But even though the number of murders had not decreased, if they had not increased that would be sufficient for your argument.] As to how they would deal with murderers if capital punishment were abolished, a suggestion had been made by Mr. Charles Phillips in an able pamphlet, which was as follows—that the murderer should be sentenced to transportation for life to some place where he should be entirely separate from all communication with relatives and friends; and that the place where he should be confined should be entirely separate from any town, and that it should be built on some place where it should be seen by those who pass by, and that there should be an inscription on the building, "murderer's grave." He was persuaded that would be a greater punishment than death, because he had never seen any one who was about to be executed realise the awful death he was about to undergo.

Mr. W. TALLACK: I regret the absence of Sir Fitzroy Kelly, who intended to have been present to take part in the discussion. Sir Fitzroy Kelly has authorised me to say that it was his earnest wish to be present and express his total and decided disapproval of capital punishment. I have received a letter from

another well-known labourer in the cause, who wished to express his regret at being unable to be present—Mr. William Ewart. The principal argument which is brought forward by those who favour the retention of capital punishment is the argument of deterrence, and I must admit that there is a great deal in that argument. It deserves serious consideration, and it is put in a powerful form. It is put in this way, that it deters people from committing many more murders—that we have not to look so much at the lives that are sacrificed by capital punishment as at the lives that are saved. Now it appears to me that we must admit the deterrence of capital punishment, but we must admit it under certain abstract conditions, and not under present and practicable conditions. If it were absolutely certain that every murderer would be hanged, then I should admit the deterrence of capital punishment. But all experience shows that we never shall have certainty upon that point. Mr. Beggs has alluded to the fact that the deterrence of the death punishment was evidently felt, and was manifested by criminals after the commission of the crimes, for they earnestly clung to life, and would have any substitute for hanging. But to be effective it ought to have operated before the commission of the crime. Not only so; but while the death punishment may be an effective deterrence to well-informed reflective minds, it could not be so to a blind passion-driven mind. We should also remember that a large number of murders are committed in circumstances of rage and passion which from their very nature make men blind to all considerations of deterrence, even if it were absolutely certain that the punishment would follow. [Lord Brougham: That argument refers to all punishments in their capacity of deterrents. If a man is thinking of committing a murder from revenge or any violent passion he does not think of the punishment—he is only under the influence of the passion of the moment.] We take the line of argument used by Lord Hobart in his pamphlet on capital punishment. While admitting the deterrent influence of capital punishment, he says it is more than negatived by the uncertainty found to be inseparable from the punishment. Lord Hobart shows that only one out of six who are committed for murder is eventually hanged. For all ordinary offences taken together the judicial statistics inform us that out of every 100 committals there are 75 convictions, whereas out of 100 capital committals there are only 25 convictions, and of these only fifteen or sixteen are executed. This is a proof of the element of practical uncertainty, that explains why capital punishments are not deterring; the deterrent feeling is negatived by the hopes of escape held out. [Lord Brougham: Do you bring out, not the percentage of committals executed, but the proportion of those convicted that are executed?] Only about two-thirds of those convicted are executed. [Lord Brougham: And in other offences?] In all offences the conviction implies the usual punishment except in capital offences. Independently of the question of deterrents, there are a number of peculiar evils attendant on the capital penalty which are not attendant upon any other punishment. One of these has been alluded to by Dr. Smith, namely, that the capital penalty is irreparable once carried into execution. [Lord Brougham: And so is a judgment of imprisonment for six months. So is flogging: if you flog a man you cannot unflog him.] No; but he could have compensation for the injury done him if it was proved to have been a mistake—as for instance, in the case of Mr. Barber. And in the supposed case of imprisonment there would be six months to find out the mistake. Another objection to capital punishments is, that a large number of persons committed for murder escape because the capital penalty requires an extent and a kind of evidence greatly in excess of any other penalty whatever. Then another peculiar accompaniment of capital punishment is the morbid notoriety of, and the morbid sympathy felt for the criminals. This notoriety, which criminals attain, is seen by many who may wish themselves to enjoy it. Then there are the conflicts of evidence which occur in cases of capital offences, and the constant interference with the executive, which is most undesirable, for law ought to be law, and accurately represent and be sustained by the public sentiment. I conclude by earnestly insisting upon the duty of considering the antecedents of the criminal population, which are such as that we can expect nothing but crime from men who have been brought up in the most degrading circumstances. Christian mercy requires us to look at the antecedents of the vilest criminals as

well as to the general question of the security of the public against the crime of murder.

Mr. North: No one has yet referred to the fact that murder is a crime of extreme variability. It may pass through all shades, from one of intense as great atrocity to one which is almost pardonable, if not excusable. I think that much of the uncertainty which has been ascribed to the administration of the law arises from the fact that juries take upon themselves to be judges, not only of the technicalities of the law, but of the justice of the law itself; juries frequently do that which they believe to be justice in violation of the strict letter of the law. [Lord Brougham: Do not forget the remarkable fact that for these ten years the number of executions, as compared with the number of convictions, has been only 105 in 185.] The sole purpose for which I rose was to indicate my opinion that while there is great uncertainty in regard to convictions in certain cases of murder, there is not that amount of uncertainty in the punishment of the true and atrocious murderer as some people are inclined to say. [Lord Brougham: I think your argument as to the various descriptions of murder applies also to the question of execution after conviction as well as to the difficulty of getting a conviction.]

Mr. Rawlinson, C.E., said he could remember when executions were much more rife than they now were. In Lancashire he had known about eight or nine executions close upon each other. At each assize the gallows was strung up with as many as it could carry. Subsequently he had had an opportunity of investigating the condition of the working classes, and of knowing something of the condition of the criminal classes of this country; and with regard to the deterrent power of the gallows, his firm conviction was, that with the class on which the example ought to be the most profound, it was absolutely powerless. The terror of the gallows was to them *nil*. He had gone into the greatest dens of iniquity—he had traversed our great cities and even our rural villages—he had seen the criminal population in their haunts of vice, and he had come to the conclusion that no example they could place before them would have any deterrent effect. He had seen a band of men occupying a room without any convenient furniture, drinking, playing at cards, and the only work of art in that room, over the chimneypiece, was Jack Shepherd on his horse, contemplating the bodies on the gibbet; every one of those men having been convicted criminals. He had gone over our great convict establishments and he had asked the warders, "How did you get these men into these places?" and the answer was, "Well, I must confess to you that, in my opinion, in nine cases out of ten, it has been bad company and an accident." He had come to the conclusion that at present the meshes of the law were a great deal too narrow; and, in his opinion, if we could have an arrangement by which men for the first offence would be subjected to some punishment that should not be deemed a degradation, that would be an enormous advantage. As to capital punishment, he was of opinion that it was degrading to the persons who witnessed it, that it was painful to some, and that it was not deterrent to any.

Dr. Williams, York, said he thought that Mr. Beggs had proved in the most incontrovertible manner that executions did not deter from crime. He was of opinion that the publication of the addresses of chaplains of gaols to condemned prisoners had an injurious effect upon the criminal class.

Dr. Kitchiner, York, said that the arguments used in that discussion by the advocates of capital punishment seemed to dwindle into the smallest possible compass. One gentleman gave, as the chief reason for its perpetration, one of the grossest, most savage, instincts of our nature—the instinct of revenge. He believed it was unnecessary to show the utter inapplicability of such a reason to this question; but that gentleman went on further to state that experience showed that every crime the punishment of which had been mitigated had gone on increasing in number and extent in this country. He believed he might, without fear of contradiction, make the counter-statement that all experience and all statistics hitherto collected had shown that mitigation of the penalty of a crime had led in all instances to a diminution in the proportionate frequency of the crime. It had been assumed that if murderers were not executed the crime of murder would be more frequent. Now all previous experience in every other

crime went to the verification of the exact contrary; and therefore he had a right to believe that as other crimes had diminished in frequency with the mitigation of the punishment and the increase of its certainty, so the crime of murder would also diminish if executions were abolished and a more certain and more deterrent punishment than execution were adopted in its place.

Alderman LEEMAN said it did not appear to him that they had sufficiently kept in view in this discussion the important question of the security of the general public. Those who had been in the habit of attending courts of justice, as it had been his lot to do for five and thirty years, would have come pretty much to this conclusion, that in the great mass of cases there had been no thought at all on the part of the person committing a murder, and that it was only in a very few cases that there was actual deliberation. He agreed with Dr. Smith that where there was deliberation the persons calculated upon their entire escape, and the punishment of death had no influence whatever upon them. But in this matter the great question was, "What is right for the security of the public?" and he had come to the conclusion that the public security could not be as well preserved by capital punishment as it would be by its abolition. That was his deliberate conviction, and it was a conviction arrived at from an observation of what passed in courts of justice; where there was always displayed an anxiety on the part of every person engaged in the administration of justice—on the part of the judge, on the part even of the counsel who are engaged against the prisoner, aye, and most strongly on the part of the jury—to discover something on which they could hang the desire they had to save human life. Why was it that in the course of the last few years out of above 600 commitments for murder the convictions amounted to less than one-fourth of that number? His experience led him to the conclusion that this was owing to the desire on the part of juries to find some means of preventing the sacrifice of human life. Juries would not even take the dictum of the judge who told them that, given a certain state of circumstances, the law was that was murder. In the courts at York, in scores of cases where the circumstances had fairly brought the criminal within the rule of law as laid down by the judge to be murder, the jury had chosen to erect a code for themselves—"If this is murder, and these circumstances are to send that man to the scaffold, we will ourselves interpose, and rescue that man from the scaffold, because we do not think that the circumstances ought to send the man to the scaffold." That was not a right state of matters in respect of the security of the general public; and security could never be properly given to the public until juries were relieved from the feeling which animated them, and until some certainty existed as to the punishment which would follow upon murder. They should always bear in mind that if a mistake should be made in a case of capital punishment they could not repair it here. Lord Brougham had remarked that the same thing was true of a man who was flogged or who had been imprisoned six months; but there was a vast difference between sending a man to his account and imprisoning a man, or inflicting personal punishment upon him. He narrated the circumstances of the case of a woman who was left for execution in York, and whom Sir George Grey declined to reprieve until, at the latest hour, the chaplain of York prison telegraphed to the Home Secretary that, from something that had come to his knowledge, he had very strong doubts as to the guilt of the woman. Sir George Grey then yielded, and by means of a special train and special messenger the reprieve arrived in York in time to save the woman's life. There were multitudes of instances of that kind on record; and the very fact that we could not, in human tribunals, arrive at perfect accuracy, was an additional argument why they should not run these risks. If it were true that the uncertainty of the punishment of the crime of murder was at present endangering the general security of the public, which he held it was, then he held that upon that, the lowest possible ground on which this question should be put, they ought to come to the conclusion that capital punishments were no longer expedient.

Lord BROUGHAM: Reference has been made to the case of forgery in this discussion, and it throws great light upon the question. When capital punishment was abolished for forgery it was done after many attempts and many failures. It was said at that time that there would be an increase of the crime

of forgery. I said I hoped there would be an increase of trials and of convictions, because many a person who had been forged upon refused at that time to come forward and prosecute; and when there was a prosecution it was excessively difficult to obtain a conviction, for the same reason that Alderman Leeman had referred to in the case of murder. All persons concerned, witnesses, prosecuting counsel, judge, and jury—particularly the jury—were determined, if possible, to avoid a conviction. After the capital punishment for forgery had been abolished, there was a little increase in the number of convictions, but after a little while it was found that there had been no increase whatever in the crime of forgery.

Mr. Beggs, in reply, expressed his great satisfaction at the way in which the subject had been treated during the discussion. His object in presenting this paper was, if possible, to direct the attention of the Association, and especially of that Department, to the one point to which he thought the public mind ought now to be directed—and that was simply the one referred to by Mr. Leeman—the security to society. Sir George Grey, in a debate some years ago, narrowed it down to that single point. He believed that the words of Sir George Grey were simply these, that if it could be shown that society was as safe without the punishment of death as it was with it, society had no right to inflict the punishment. That was the ground he had taken in the paper he had read, and he had endeavoured to exclude all other topics generally mixed up with the question. He would now conclude by asking the Association to consider this subject with the view of sustaining the Commission in the arduous inquiry upon which they were about to enter.

LOCAL COURTS OF RECORD.

Mr. Gainsford Bruce, barrister, read a paper "On the Ancient Local Courts of Record existing in England," the value of which he described, especially as to actions for sums from £20 to £100. Mr. Bruce pointed out that the provisions of the Common Law Procedure Acts had been already applied to several of these courts, and might be extended to all by Order in Council. He also showed the popularity of these courts in London, Liverpool, and Bristol, and that it would be easy to restore the efficiency of those which have fallen partially into disuse.*

A NEW COURT OF CIVIL LAW JURISDICTION.

Mr. Hastings proposed the establishment of a new Court of Probate, Divorce, Maritime, and Ecclesiastical Jurisdiction. He pointed out that there were three great divisions of our law:—common law, equity, and civil. The various branches of the last were at present separated, and some of them had never been brought completely within the pale of our jurisprudence. The Ecclesiastical Courts especially were in a most anomalous position, and whereas in former times their business had been administered by most able judges and a learned bar, they were now, owing to the transfer of the probate and divorce business to a new tribunal,

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* Mr. Bruce's paper will be found at length in the *Law Magazine* for February, 1865. See also *Transactions*, 1858, pp. 153, 160.

deprived of the means of efficiency. The ecclesiastical causes proper were not sufficient to maintain a bar, and on the first vacancy the judgeship of the Admiralty Court was, by Act of Parliament, to be united with that of the Probate Court, which would leave the judge of the Appeal Court of the Province of Canterbury practically without a salary. The Consistorial Courts were even in a worse position, and ought to be abolished at once. Mr. Hastings thought the various branches of law formerly administered in Doctors' Commons ought to be kept together, as having a common origin, but that this should be done by establishing a Court which would unite them all under a common jurisdiction, and with a uniform procedure, rather than by merely vesting separate judgeships in one man. He proposed that a new superior court, embracing the business of the Court of Probate and Divorce, the Court of Admiralty, and the Ecclesiastical Courts, should be established, consisting of three judges, a chief and two puisnes, who should sit separately or collectively as occasion required. Such a tribunal would strengthen the administration of our maritime law, in which questions of great difficulty would arise in case of a naval war; it would give decisions of weight and authority in ecclesiastical suits; and at the same time it might be made the means of relieving the fifteen common-law judges of some of their work at *Nisi Prius* and on circuit. Such a court would complete the circle of our tribunals by collecting together the civil law branches of our jurisprudence, and administering them on the same level as its great divisions of equity and common-law. "It may well be," said Mr. Hastings in conclusion, "that at some future period the three may come to be united and administered by a high court of justice with a common procedure; but I deal here with the present and the practical, and do not venture to look into the possibilities of a yet distant time."

PROBATE AND SUCCESSION DUTY.

The Rev. NASH STEPHENSON read a paper "On the Probate and Succession Duty levied on Property left under general Power of Appointment." The heaviness of the tax on property bequeathed under these circumstances was illustrated by assuming that the sum of £1,200 had been left, the parties being strangers in blood. There would then have to be paid—

	£
Under First Will:	
Probate Duty on £1,200	30
Succession Duty on £1,200 at ten per cent.	120
Under Second Will:	
Probate Duty on £1,050	30
Succession Duty at ten per cent. on £1,050	105
Total to be paid by appointee	£285

An exaction like this, which eats into and devours nearly a fourth of the capital, ceases to be of the nature of a tax, and amounts to confiscation of property, paralyses the desire for amassing of wealth, and leads to evasion of duty. A like sum, left direct under the first will, would be subject to half the amount of duty; and yet no one would pretend to assert, except, perhaps, in strained legal phraseology, that there were two successions, two devolutions, two beneficial enjoyments; and it was sound policy to encourage the leaving of general power of appointments, and to defer to as late a period as possible the appropriation of the corpus, as none can foresee the changes which death and ever varying circumstances may bring about. It was hard to understand why leasehold should be included with personal property as subject to probate duty, and freehold property should be exempt. If it be contended that freehold property has its special burdens, such as tithe, poor and highway rates, &c., the answer is good as against personal property, but breaks down as regards leasehold property. Both freehold and leasehold property are similarly circumstanced. There is but one alternative—both or neither should be included. From what had appeared recently in the public press, it was probable that the probate and succession duties would be re-considered in the approaching Session of Parliament, and Mr. Stephenson hoped that the whole subject would be first of all taken up by the Law Amendment Society, now united with the Association, that they would draw up a Bill, and that the grievances complained of would be abated.

THE LAW OF BANNS OF MARRIAGE.

In a paper on this subject, by the Rev. S. C. Wilks, the defects of the present law of marriage by banns were pointed out, and a plan proposed for obtaining, as a preliminary to the publication of banns, a declaration somewhat similar to the registration certificate. Under the existing law a beneficed clergyman is bound seven days after receipt of a written statement containing the names and abodes of any two persons residing in his parish, and the time they have "dwelt, inhabited, or lodged" there, to publish the banns of marriage between them. He cannot oblige either of the parties to tell him where they come from, whether they are minors, or of full age; whether their fathers or guardians approve of the marriage, or whether they know of any legal impediment. When the banns have been duly published, he is obliged to solemnize the marriage. It appears by the last return (1862), that more than 100,000 out of the 164,000 marriages which took place in England and Wales during the preceding year were by banns. Mr. Wilks having showed the necessity for putting some restraint upon the facility now afforded for contracting clandestine and improvident marriages urged the introduction of bann books, containing a declaration to be signed by both applicants in answer to printed questions, in the subjoined form.

BANNS OF MARRIAGE: NURSLING PARISH, COUNTY OF HANTS, 1864.

What are your Christian Names and Surnames?	Where have you lived the seven days last past?	Are you Bachelor or Widower? Spinster or Widow?	Are you, to the best of your belief, of the full age of twenty-one years?	If you are under twenty-one years, and not a Widower, or Widow, have you the consent of your lawful Father, if he is living; or, if he is dead, of your Guardian? or of your Mother if you have neither Father nor Guardian?	Do you know of any lawful hindrance to your marriage?
John May	6, Grove Place, Nursling.	widower	Yes; 26	———	No.
Mary Dew	5, Queen's Row, Nursling.	spinster	No; 20	Yes; my father's	No.

My declarations as above are true: John May, June 4. Witness: S. C. Lovegrove, Rector.
My declarations as above are true: Mary Dew, June 9. Witness: F. Stave, Parish Clerk.

First Asking,
Second Asking,
Third Asking.

LAW OF EVIDENCE.*

Mr. ALFRED WADDILOVE, D.C.L., read a paper "On the Exclusion of Evidence," in which he advocated the following propositions:—1. That persons charged with a criminal offence should on their trial be permitted, if they thought fit, to give their own evidence on oath in order to clear themselves of the charge against them; 2. That husbands and wives should be competent and compellable to give evidence for and against each other in criminal as well as in civil cases; 3. That parties to a suit, of whatever nature, should be competent and compellable to give evidence bearing on the issue for and against each other; 4. That judges should be empowered to summon any person to give evidence if they thought necessary, whether in civil or criminal cases, and that they might adjourn the hearing of the cause for that purpose.

LEGISLATION ON INTEMPERANCE.†

Mr. JAMES H. RAPER read a paper on "The Office of Legislation in the Prevention of Intemperance," submitted by the Executive of the United Kingdom Alliance. To prevent intemperance, which is the source of numerous evils, not to the drunkard alone, but to his family and to society, is an object not outside the province of legislation, if it be allowed that legislation may prevent as well as punish wrong. Those who object to legislation against intemperance do not

* See *Transactions*, 1863, p. 172.
† See *Transactions*, 1860, pp. 532-538; 1862, pp. 452, 458.

so much object to all legislation, as to some special kind which they believe is intended. The common objection, "you cannot make men sober by Act of Parliament," is inconsistently urged by persons who do not object to all legislation against intemperance, it is only used as a convenient way of disparaging some particular method of attacking drunkenness, which they do not like. But if the objection mean that no law can render intemperance impracticable, it is a futile objection, for no law is perfect in operation. We can diminish facilities for evil, that is all, and make external conditions more favourable to virtue. Legislation, therefore, ought to act to this end, and should carefully consider how best it can attain it. To help in this inquiry has been the aim of the United Kingdom Alliance, believing with Mr. Charles Buxton that "the question is, whether millions of our countrymen shall be helped to become happier and wiser—whether pauperism, lunacy, disease and crime shall be diminished—whether multitudes of men, women, and children, shall be aided to escape from utter ruin of body and soul? Surely such a question as this ought to be weighed with earnest thought by all our patriots." I. It may be objected that legislation against drunkenness has been tried, and has failed. There are laws to punish drunkenness and drunkards. But 1. The mass of offenders is so great that only the very worst can be arrested, and only the most disorderly of these are punished. 2. Drunkenness too renders men too blind to self-interest to allow them to be restrained by a simple fine; and, 3. Intentional drunkenness is rare: people never feel so very sober, as just when getting drunk. II. Laws regulating the sale of drink have been tried and failed: they have not failed to diminish drunkenness in proportion that they diminish facilities, but they do not sensibly affect the sale in legal hours, or render the drink then consumed less productive of intemperance. Putting the seller under heavy bonds would not provide means of meeting the difficulty in any way than by making the seller eject the drinker upon the streets more frequently. III. Fiscal laws have been used to diminish intemperance. Increased taxes have done some, but very little good. IV. Schemes for reducing numbers of licences have been proposed, but if the size of the shops be increased this would also fail. V. Attempts have been made to introduce weaker beverages; the Beer Act of 1830, and Mr. Gladstone's Wine Act of 1860; but both have failed to change national taste: the weaker beverage is the stepping-stone to the stronger. The interest of the licensed seller of intoxicating drinks is opposed to society; legislation therefore against the trade is needed. The conjunction of the sale of food with that of intoxicating drinks must be stopped, and if he cannot make a living by supplying wholesome food, it is clear that his previous prosperity has been built on the cultivation of a pernicious taste for drink. But it would be unjust to forbid the victualler to sell drink and permit others to do so, and hence the only efficient guard against intemperance which at the same time is fair, would be to give permission to the inhabitants of a district to prohibit the sale of intoxi-

cants in that district if they chose. The proposal of the Alliance is that this power should be given when two-thirds of the votes registered upon the question are opposed to licensing. It is a proposal, the result of which can only be fairly judged by an impartial trial. The operation would be local and voluntary, and would not be perpetuated beyond a certain period if it did not prove itself efficacious. Many politicians have denied that a majority of the people should be entrusted with political power, lest they should endanger the fabric of the State; but it is left with the assailants of the Alliance to refuse a large popular majority the power of delivering themselves from a social evil of the utmost enormity.

REFORMATORY SECTION.

PENAL DISCIPLINE IN COUNTY GAOLS.*

Can a Uniform System of Penal Discipline be established in County Gaols? and, if so, in what way?

The Address of Sir Walter Crofton, which opened the proceedings of the Section, will be found at p. 227.

The Rev. J. FIELD read a paper "On Penal Labour in Houses of Correction," in which he strongly condemned the system of short imprisonment. He considered "hard labour" useless as a deterrent. Labour in prison could not be made equal to the labour of the excavator, the miner, or even the agricultural labourer, nor could the prisoners be exposed to the same privations, and he confidently affirmed that there was nothing in the apprehension of prison-labour as a punishment which could be expected to deter from crime. He also condemned most strongly the tread-wheel and the crank, and all other debasing forms of useless labour. But while he deprecated the infliction of hard labour as an inadequate punishment in itself, and as surely tending to increase depravity when imposed with the aggravations of uselessness and disgrace; he held it further objectionable as counteracting the more severe punishment of separate confinement, and the corrective discipline of which that may be the means. The great principle he recommended was that labour and instruction should be given as the alleviations of punishment. He deeply regretted that the recent committee on prison discipline had recommended an increase of penal labour. He deprecated the continuance of indulgences to prisoners. Their diet was too tempting, their hours of sleep too long. Sloth and sensuality, the latter a general characteristic of the class, should be strictly counteracted in

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* See *Transactions* 1857, p. 306; 1858, p. 382; 1859, p. 496; 1862 pp. 414, 425.

prison by harder beds and less sleep, and less and harder fare. The substance of this paper has been published by the author.*

DISCUSSION.

Mr. T. B. Ll. BAKER: I have been for thirty-five years a gaol visitor and have given a great deal of study to the subject of prison discipline. To carry out a universal system in prisons, I do not think quite feasible; one system would not suit all gaols. I have frequently heard from committees of medical men what amount of food a prisoner requires, and committees of the Lords and Commons have discussed what amount of labour and what amount of discipline was necessary to reform a prisoner; and I have often wondered whether a committee of tailors could not be appointed to determine what size of clothes would fit him. It is requisite that his coat should fit him as well as his other clothing, for there are prisoners of all sizes both externally and internally. Men of large frame and vigorous constitution are able to do more work and require more food and a system of treatment which would injure materially a small slender man. A dietary suited to all patients has never been tried in hospitals, and in prisons we can never arrive at a strict system of dietary. Still much may be done to make gaols as regards dietary more uniform than at present. It is a matter of importance that in all gaols the punishments should be of a mixed character. Each prison should have provision for separate confinement, the tread-mill, and other means that can be readily adopted in the proper punishment of prisoners. I have met with prisoners who after being kept in separate confinement for a week or two were reduced to weakness though before strong and energetic persons. Their hands would shake, and if talked to a little in a serious way they would burst into tears. In the next cell to a man of this kind might be one who was a dull and unenergetic labourer, who would go easily through his allotted task, and enjoy his diet and find comfort, rest, and ease, in the separate system. Mr. Field has given it as his opinion that the reformatory principle in gaols is more important than the deterrent. I have always taken an opposite view, and I believe that the deterrent influence has the greater power. Although reformation should be attended to, yet, deterring from crime is more important because a far larger number of persons are inclined to run into crime than those who actually commit it. Those who have not come under the grasp of the law are as fifty to one over those who have done so. Prison discipline must therefore be made deterrent. I believe that short terms of imprisonment with strict discipline are the best, for when a man leaves gaol under such circumstances at the expiration of a few weeks, he goes amongst his fellows, those who are likely to become criminals, and tells them what a dreadful place the gaol is. These are the sort of men whom we wish to impress with the discomfort of prisons, and induce not to commit crime. If we let out of a cage a bird which has been confined in it a long time, it will have a liking for the cage, and will try to get back again; but if it is let out at the end of two or three days it will fly away and will have an extreme horror of the cage. This is precisely the case with prisoners, and short sentences have a deterrent influence, long sentences give the prisoner some chance of reformation by keeping him from his evil habits; but in all gaols there are always a large number of prisoners who cannot be reformed at all.

Lord TEIGNMOUTH: I am sure the discussion of this important question will contribute in some degree to bring public opinion to bear upon the subject, and that is a step gained. Parliament ought long before this to have attended to the subject and settled it upon a sound basis. I am in favour of the separate system of confinement, a system which is being adopted in almost every gaol in the kingdom: and it is to the uniform adoption of this system that we must look in the main for improvement in the management of prisons. There were once five

* "Remarks on Imprisonment and Penal Labour," by the Rev. J. Field, Rector of West Rounton, and a Visiting Justice of the North Riding House of Correction. London: Longman and Co.

inspectors of prisons, but now the number is reduced to two. The magistrates who attend the quarter sessions consist of lay and clerical gentlemen appointed by the Lord Lieutenant. Nineteen out of twenty of them have given no attention whatever to prison discipline. The county business commences with a discussion as to the state of the riding bridges and roads, and the consideration of prison discipline is squeezed into the short space of a quarter of an hour. In this city of York there is one of the best gaols in the kingdom, and what takes place there? For the three ridings of Yorkshire there are some 800 magistrates, who ought to superintend that Castle, but they never do so, and the result is that everything is managed by two or three justices. This handful of magistrates decide and regulate all the business of the gaol, unless there happens to be the election of some officer to take place, or a large grant of money to be made. It is clear, therefore, that if the present system is pursued, the matter must come into the hands of the Government.

Sir Baldwin Leighton, M.P.: I am in favour of a deterrent system of punishment rather than the adoption of reformatory measures altogether, considering that greater attention should be paid to the former than to the latter. The large majority of prisoners are in gaol only for a short time, from a week to three weeks, and therefore there is no chance of reforming them; the chaplain in that brief period has little time or opportunity to attend to them and give them good advice. They are for the most part ignorant men, and the only thing left in such cases is to make the attempt to deter them from future crime. One great deterring influence is the disgrace of going to gaol. This I consider to have a more deterring effect than anything else. It has been stated that the returns of prisoners who came back to gaol after being discharged is in Berkshire only 22 per cent.; but in a prison with which I am connected as a visiting justice, the numbers instead of being at the rate of 22 per cent., ranged from 60 to 70 per cent. The reason of this difference may be, that in the former instance only those prisoners of whom there was legal proof of previous conviction are returned, but in the gaol to which I refer, the turnkeys can invariably tell whether the newcomer has been in prison before. If he ties up his bed in the regular prison way, then he is put down as an old gaol bird. In this prison the men cannot have water to drink unless they pump it up for themselves. Oakum picking may be a good thing in prisons not situated at a great distance from the sea coast, but in a midland county there is great difficulty often experienced in finding employment for prisoners. But the greatest difficulty of all is with female prisoners, a class of persons almost impossible to reform. I have always for the last twenty years, as chairman of the quarter sessions, adopted the principle of short terms of imprisonment or penal servitude. The county gaol is not the place in which to reform prisoners; my principle is to give as short and sharp a punishment as possible, as a means of checking crime.

Mr. Seymour Teulon: The proposition that a uniform system of penal servitude should be established in county prisons may not be necessary to be carried out, but imprisonment should be deterrent in character, and a prison should not be made a refuge for the idle and abandoned during the winter season. The gaol has no deterrent influence upon men who wish to enter it, and, therefore, there should be a deterrent system at work in all gaols to prevent men from taking refuge in them. Prisoners should be placed in the same condition whilst in custody and be made to earn their own living in the same way as when they are out of prison. A few days ago I met with an eminent engineer, and he estimated that the value of the labour done at Portland was about 2½*d.* per head per day. That no man's labour even for a quarter of a day ought to be put down at that price is self-evident, and, therefore, it is clear that there is something wrong in the system. A prisoner ought to be able to do as much work in gaol as out of it, but that is impossible under the present system. I very much doubt that any good results by marching off prisoners in the middle of the day to chapel to take part in the service in which they take not the slightest interest. The result is merely a waste of time. This is no doubt a very delicate subject to touch upon, but is it to be expected that a man who is forcibly taken every day to chapel will derive any benefit from the service? I appeal to Sir Walter Crofton whether he has known a single instance where this going to chapel has

been attended with any benefit to the prisoners. This is a subject which is never mentioned by governors of prisons. I have heard of instances where prisoners whilst assembled in chapel have concocted with each other schemes for carrying out *emeutes* and disturbances in the prison. The prisoners ought to rise early in the morning, be made to do a fair day's work, and the labour ought to pay the expense of their maintenance. In New York the prisoners not only pay for their keep by the labour they perform, but there is a profit to the state. Idleness is one of the great causes of crime, and, therefore, labour should be strictly enforced. The separate system should be adopted in all prisons, and the labour performed rendered as profitable as possible. Crank labour for no other purpose than mere work is highly wrong, but it is right when carried out for useful purposes, grinding corn, or other work of a beneficial character. It is a clear principle that a labourer should earn his living in prison; I would go a little beyond that, and say that I would hold out to the labourer who became skilled in his work an inducement to reform and be industrious by allowing him the money he earned above the cost of his maintenance on his going out of prison to resume his work and his former position in society in some part of the country where he is unknown, and earn his living as an honest man.

Mr. Wheatley Balme: That prisons should exercise a deterrent influence is necessary. The strongest deterrent from crime is the punishment of shame. If shame is lost, then the strongest influence to remain honest is lost. In considering the question of prison discipline, it is necessary to recollect that if a reformatory effect is intended to be produced, that effect must require a long time to accomplish. Long imprisonments are required for a reformatory process: short imprisonments for deterrent purposes. It would be better if the law took away from magistrates a good deal of the discretion they possess. There is a tendency to great leniency in sentences. For a first offence a few days, for a second offence a little more: then three months; next four months; then six and nine months, and so on. By this gradual process of punishment the offender never feels the gaol as a place of punishment. I am in favour of penal servitude being adopted with offenders at an earlier period of their career, rather than the carrying out of a system of short and graduated terms of imprisonment, which accustom offenders to punishment and render them reckless. I would be lenient with a prisoner at first, but severe afterwards—first a short sentence, then a long one.

Captain Cartwright, Governor of Gloucester Gaol: I consider the treadwheel anything but a reformatory engine. Industrial employment and other work of a beneficial nature, the confirmed criminal finds much more irksome than the treadwheel. When employed at it, he had the opportunity of looking around at his bad companions and holding in effect a conversation with them. The management of gaols devolves upon a few visiting magistrates, and when the justices meet in Quarter Sessions there is hardly time to consider any propositions for improvements in the gaol. Reforms are put to the vote and decided hastily, or put aside altogether. It would be desirable to form central prisons in which a proper distinction could be made between men sentenced to short terms and men punished with long terms of imprisonment. A man sentenced to a long term of imprisonment should be sent to a central prison, as there the system of punishment could be carried out in the most effective manner. These central prisons might be managed by central boards, in order to ensure uniformity of system in the management. It is important that further progress should be made in the efforts to reform prisoners. When they are discharged from gaol, nothing at present is done for providing them with employment. In some counties the magistracy are organising a system for the purpose; and in Middlesex a little has already been accomplished, but the organisation as yet is insufficient. The question of giving men work when they are discharged from prison was one of vital importance, and requires careful attention. One reason why so many of them again commit crime is their inability to find employment and earn an honest living.

Mr. Shepherd, the retiring Governor of Wakefield House of Correction: With regard to the question, Can a uniform system of penal discipline be established in county gaols? I doubt whether it is at all desirable, even if practicable. The same diet, the same discipline, the same exercise, the same work, the same

punishment, and the same indulgence could not be carried out uniformly in the whole kingdom. Such a stereotyped system would have the effect of stopping the desire for improvement which was now so largely manifested in all parts of the country. Throughout the kingdom every one in any way connected with prisons, whether as magistrate or officer, should try to do his best to secure the best kind of discipline that could possibly be attained. There are 400 magistrates in the West Riding, all anxious to see that the system of discipline in Wakefield Gaol works well, and at the same time desirous to effect improvements and make the prison as perfect as possible; but there is no uniform plan adopted, arrangements being carried out which, of all others, are considered best. Every reformatory institution is conducted upon a different plan to some extent, and it is found that all of them are doing well; and I do not think if uniformity were enforced these schools would be better managed or of greater utility. It is not at all desirable to establish a general principle of uniformity. Prisoners sentenced to short terms of imprisonment and those sentenced to long imprisonment must be considered entirely distinct. Reformatory measures are of no avail to prisoners who leave gaol at the expiration of seven days, a month, or two or three months. What beneficial agency can be brought to bear upon such men as regards their future reformation? Scarcely any. But a great deal may be done by deterrent influences; and these consist in a great measure in the sense of shame—the dread of disgrace in being sent to prison. I recently put the question to a man hardened in crime: "You are now making mats; do you like that kind of work?" "No." "Suppose you had your choice—would you rather work in this cell privately, or labour on the public road in the town of Wakefield or near to it?" "I had rather work in a separate cell." "Why?" "I should not like to be pointed at, and be scorned, shunned." This hardened offender felt the influence of shame, and if it can touch the heart of the hardened criminal, surely a great deal may be done with those who are young in crime, and who are committed to prison for short terms. I have traced the career of at least 10,000 prisoners, who have been imprisoned for the first time in their lives, and of this number 22 per cent. came back to prison. Of the old offenders, above 50 per cent. returned to the gaol. These require a different mode of treatment. Once in visiting a prison, the governor showed me five or six cells, in every one of which a slate was hung up, and certain chapters of the Bible written thereon. The governor said to the man in the first cell he entered: "Now repeat to this gentleman the last chapter." The man obeyed, and did so very much like a parrot, and the same thing was repeated by the whole of the six men in these six cells. After this I was introduced to the chaplain of the gaol, who was not aware that I had seen the men in the cells, so he went with me to these same prisoners, and the same scene was enacted as in the first instance. For prisoners to spend so much of their time in getting off by heart chapters in the Bible to repeat to visitors, is anything but a satisfactory arrangement, and has no salutary influence upon the religious or moral feelings of the prisoners. I advocate prisoners being engaged in useful and profitable employment; the system worked at Wakefield prison, and was highly productive. Every prisoner who has been in gaol beyond a certain period, ought to be made to earn his own living. Men sentenced to short terms of imprisonment could not earn, but men in gaols for several months should not be kept in idleness. The labour in prisons would be far more productive if it were not broken into by the men attending school and going to the chapel service. The labour of the day is impeded, first by the prisoners going to school, and then attending chapel. A system ought not to prevail in a prison which is not pursued outside its walls. The arrangements in gaol ought to resemble as much as possible what the prisoners had been accustomed to before they committed crime. It is not natural for a prisoner to go to chapel every day, nor to go to school in the middle of the day; so far more good would result in gaols, if the prisoners went to chapel once a week on the Sunday, in the same way as the public at large, for in that case a religious service might make some impression upon them; and with regard to attending school they might do so with advantage after the proper hours for labour in the prison. In these respects alteration is required in the mode of prison management. When an offender gives signs of amendment, and evinces a sort of trembling anxiety to do well,

then the hand of help should be put out to him, and endeavours made to enable him to earn an honest living on leaving the goal.

Sir WALTER CROFTON: I have listened with pleasure to the interesting speeches which have been delivered this morning, and the discussion has convinced me more and more that there is a necessity for the exercise of central authority. After all we must come back to the gist of Sir George Grey's Bill, which in some shape or other will appear early in the next session. I hope that the Bill will be handed over to a select committee, and that something will be done towards properly defining what hard labour is. It has been defined to some extent, and is said to be that "which visibly quickens the breath and opens the pores," and I am not disposed to quarrel with the definition. I do not see any objection to prisoners being placed upon the treadwheel and the crank under proper regulations. On the contrary, I am favourable to their use when employed for productive purposes. I believe it is necessary that prisoners should undergo a preliminary amount of hard work at the treadwheel, and by degrees raise themselves up to the industrial employments in the prison. I have gone amongst prisoners and seen them evince anxiety to get away from the treadwheel and work at the industrial occupations, and thus a desire was manifested to improve their position. To shut up a man in a cell at oakum-picking is no doubt a deterrent plan, but it is worse than the treadwheel or the crank. The treadwheel and the crank have not been tried upon a fair system so as to test their value as punishments. They have been used in pursuance of no system, but put to work haphazard, and for convenience sake. It is not desirable to put a man to the treadwheel and crank during the whole period of his imprisonment. At first the prisoner ought to have so many hours at the treadwheel, and as his imprisonment proceeded towards its termination he might have his time at the treadwheel reduced by degrees, and his work at the industrial occupations increased. As the time at the treadwheel decreased, so would the time at industrial labour increase. I trust that by the resolutions which I hope you will adopt when proposed, you will give the Home Secretary some idea what hard labour ought to be. As to the dietary question, it is not necessary to go into detail on the different scales of diet, but you affirm the principle that it should be permissive in its character. There are too many meals according to the scale, three being ample for all practical purposes, and the magistrates ought to have a voice upon this subject.

At the concluding sitting of the Section Sir WALTER CROFTON read the following "Observations on the Discipline and Classification of Prisoners recently Introduced into Winchester Gaol."

What has passed during our discussion on penal discipline induces me to consider that a brief description of the system pursued at Winchester Gaol may be both interesting and instructive.

It is not a system conceived in a spirit of vengeance, far from it, but one which is based upon sound and intelligible principles—strict, it is true, yet just, and perfectly humane.

We are most of us aware that the system at Winchester is, in a great measure, based upon recommendations made by the Lords' Committee of 1863, with reference to our county and borough gaols, which was presided over by the Earl of Carnarvon. It is that nobleman who has introduced the system now in force at Winchester Gaol. Let him speak for himself. In describing his principles, in a report made by a committee of visiting justices of which he was the chairman, he says, "They are of opinion that there are some changes that may be made which will secure a more effective discipline; but in any such changes they wish not only to give effect

to the penal part of the system, but to see more fully developed those influences which may tend to the reformation of the prisoner. With this view they recognize both the discipline of hard labour, and the discipline which may be enforced under industrial work. Both may be made integral parts of a prison system, but it is important to keep them separate. 'Hard labour,' properly so called, belongs to short sentences, to the earlier stages of long imprisonment, and to the correction of prison offences. It ought, in the opinion of the committee, never entirely to disappear from the system of penal discipline, but it may with advantage be allowed, as the sentence advances, to give place gradually to industrial work. The committee believe that reformation of conduct, wherever possible, must be tested by the practical proofs of an industrious disposition, rather than by professions of feeling, and in this sense of the word they would wish to see the reformatory principle not only carried out more fully in the later, but commenced in the earlier stages of imprisonment. They desire that from comparatively an early time the prisoner should understand that the system under which he is placed is a strictly progressive one, that, in the successive stages of imprisonment, opportunities will be given him of proving his good intentions by the performance of actual work, and that it depends on himself to ameliorate his condition morally and materially."

You will observe that it is upon these sound principles, which recommend themselves to all prison reformers, Sir George Grey is now wisely proceeding with prisoners under sentence of penal servitude, who have to depend upon their own exertions measured by "marks" in order to obtain their "tickets-of-leave."

It is all important that the principles on which we proceed in the treatment of our criminals should harmonize as far as is practicable.

It is not difficult to see that it is far easier to carry out these principles in convict prisons than in county and borough gaols, because the longer sentences afford greater scope for their development, and because the motive power to exertion—liberty—is the strongest which can be placed before a criminal.

I will now proceed to show how these principles are developed at Winchester.

1st. The prisoners are divided in five classes; those in the first month of their imprisonment form the 1st class; those in the second and third month form the 2nd class; those in the fourth, fifth, and sixth month form the 3rd class; those in the seventh, eighth, ninth, tenth, eleventh, and twelfth month form the 4th class; and those over that period the 5th class.

A certain amount of "hard labour" is allotted to each class, which is gradually relaxed as the class becomes higher, and is replaced by industrial employment; other relaxations also take place as the class becomes higher.

In order to admit of the criminal improving his position through his own exertions, he is allowed to abbreviate the period laid down for each class, and obtain remissions of time through industry. This

industry is daily recorded by a simple system of "marks" which forcibly realizes to the criminal how much his position really depends upon himself. Until he acquires a certain number of "marks" fixed as the number required to entitle him to promotion in each class, he cannot obtain it.

It is not difficult to realize that the motive power to reach the industrial classes is strong, and that industry becomes associated with pleasure in the mind of the criminal—an association by no means to be undervalued.

The appliances at use at Winchester for carrying on "hard labour" are the treadwheel, the crank, stone-breaking, and oakum beating with a mallet.

It is evident that there are many prisoners who are quite unequal to these employments; at least unequal to be employed at them regularly and systematically, and they are, therefore, not employed at them at all. In many prisons it would be found that this class of prisoners would be immediately placed on the fatigues of the prison, or at some light and pleasant employment. It is not so at Winchester. A very minute examination is made by the medical officers of all the prisoners, and those to whom I have alluded are classed as "non-effectives." They are employed in classes also, commencing with the penal and distasteful occupation of oakum picking by task, working themselves by "marks" into higher classes, and industrial and more pleasant employments. The fatigues of the prison, the garden work, employment in the stores and in any position of trust, are reserved for the highest classes. Small gratuities are given through a "Prisoners' Aid Society" established by the indefatigable chaplain (Mr. Rogers) to those who have proved by their "marks" that they merit them.

It is true, as was stated in the Section the other day, that the prisoners are for the first month obliged to sleep on a guard bed. It is true also that the hours of sleep have been reduced to eight, and that the hours which were formerly wasted in sloth are now occupied in industry. But is this undue hardship? Do not our military prisoners sleep on guard beds? And is it not our business in our prison training to discourage the great enemy of the criminal classes, idleness, and to stimulate industry by every rational means?

At Winchester Gaol an evening school has been established; it is the principle that education is a privilege which must be enjoyed after the labour of the day.

I am in a position to state that, as with other parts of the system, this arrangement works satisfactorily.

"Photography" has been introduced, and very great care is taken to inform every prisoner of the consequence of pursuing a course of crime, by reading the second clause of the Penal Servitude Act which entails a minimum penal servitude sentence of seven years on prisoners formerly convicted of felony.

I have now given you a brief description of the principles of the system pursued at Winchester Gaol, and have pointed out how they are developed. I am far from denying that the system is stringent

in its requirements; I believe it to be good for the public and for the criminal himself that it should be so. I do not assert that experience may not yet show improvements in details which can be made from time to time with advantage. I do not assert that it need be necessary that all gaols should follow Winchester in their appliances for "hard labour." But I do assert that the principles which prevail at Winchester Gaol to the credit of that establishment, should receive most anxious and serious attention.

I rejoice to find that resolutions are to be proposed which will serve to generally define "hard labour," and tend to promote both a uniform and a sound system of prison discipline in our county and borough goals. These resolutions will be our reply to the special question which has been set us to solve, viz.: Can a uniform system of prison discipline be carried out in our county goals? and, if so, in what manner?

After some further discussion the following resolutions were adopted:—

"That in order to improve the discipline and classification of prisoners in our county gaols and houses of correction, and to render their treatment more uniform throughout the country, it is desirable that the following provisions should be introduced in the Gaol Bill of next session.

"1. The abolition of all gaols deemed inadequate for the purpose of carrying out efficient prison discipline.

"2. The withholding of treasury allowances from all gaols in which effective prison discipline shall not have been carried out in such a manner as may appear to the Secretary of State to fulfil the requirements of the law.

"3. That, as far as possible, the employment of prisoners should be of a productive character.

"4. That all sentences not exceeding fourteen days should be passed in strict separate confinement, on low diet, and without hard labour.

"5. That a system of progressive improvement in diet and as to labour should be adopted; and that it is desirable that the earlier portion of sentences over fourteen days should be passed in strict separate confinement, on low diet, without labour.

"6. That gratuities should only be granted as rewards for proved industry, accompanied with good conduct while under detention; and that the clause in the Act for the better ordering of prisons (2 & 3 Vict., c. 56, s. 8), which has been supposed to forbid the granting of money to convicted prisoners upon their discharge, out of their earnings, should be repealed.

"7. That all improvements in the condition of the prisoner should be made to depend on his own exertions, as measured by a well devised system of marks.

"8. That it is desirable that photography should be adopted in the county and borough prisons.

UNIFORM SENTENCES.

Mr. T. B. Ll. Baker read a paper "On a Uniform System of Sentencing." The system he suggested was simply to make the punishment depend, not on the supposed degree of criminality, but on the number of the repetitions of offence. Thus a culprit on first conviction should receive a week or ten days on bread and water only, on a second twelve months' imprisonment, on a third seven years' penal servitude, and on a fourth penal servitude for life, or for some such

long term as should enable him to be released on ticket-of-leave, and kept for the greater part of his life under surveillance. He thought the magistrates of the country ought to give this system a fair trial. He believed it would work fairly in nineteen out of twenty cases, but of course there would be exceptions at the discretion of the magistrates. The effect of such a system would be—first, that any man meditating a crime would know the penalty beforehand with startling distinctness. He would know perfectly whether he had been in prison or not, and how often, and this would tell him precisely the punishment to expect. Secondly, it would bring a far more important result, viz., that it must inevitably annihilate the class of old and hardened offenders, who at present are the dread of the honest, and the corruption of the weak. The objections most commonly made to the system were, first, that men would calculate on the ten days' imprisonment and would not dread the commission of a first offence. Secondly, that if every second conviction receive twelve months it would fill our gaols and require new ones. To the first he replied that men who have not been convicted do not calculate upon the consequences. They fall into crime, in nine cases out of ten, rather from weakness and thoughtlessness than from premeditation; it is after two or three imprisonments of three months each that they get used to gaol, and used to crime, and calculate coolly on the chances of both. To the second objection he replied that the shortening of the term of the many first convictions would compensate for the increased length of the second, while he had little doubt that the increased severity on a second conviction would deter so many as to greatly diminish our average of prisoners. Lastly, the system if tried and successful would give to the public a greatly increased respect for the operation of the law, because it would show that the object desired was not a mere revenge for past crimes, but an effectual prevention of future crimes, and regard for the public safety.

SUPERVISION.

Mr. C. P. Measor contributed a paper "On the Supervision of Licensed Convicts," in which he gave a history of the licence system, and commented on the probable working of the new provision for supervision of licence-holders in England. He considered that two most important adjuncts were necessary to the working of this provision. First, some form of intermediate prison, where the self-control and industry of prisoners might be fairly tested before they were thrown on the world, and to which employers might refer; and secondly, some special and central department of supervision by which the Home Secretary might be enabled to guide the police in reference to individual prisoners. The time, place, and manner in which the chief officers of constabulary should receive the monthly visits of each ticket-of-leave man the Home Secretary must regulate, as otherwise irregularity and abuse might ensue. By these important additions to what has been already gained, Mr. Measor considered

that there would be a greater chance of the successful disposal of convicts than had ever yet been attained. A properly regulated supervision would not interfere with their employment, and an improved prison training would lead the public to attach a real value to a prison character.

Mr. JAMES C. ORGAN read a paper "On Convicts without the Prison." He stated his firm conviction that the great majority of convicts can be amended and reformed, and went on to consider what steps were most effectual in attaining that end. The first step on their release from prison, he felt sure, was to gain their confidence, the next to restore confidence in them among employers of labour. For this purpose, an officer was required. One prudent energetic man, with his heart in the work, appointed to every populous district in which avenues to employment could be opened, with power to relieve the honestly disposed discharged prisoner in his temporary straits of illness or want of work, would go further toward solving the problem of what to do with our prisoners than anything else. The district officers should be subject to a board of directors who should be empowered to receive contributions in aid of discharged prisoners. A monthly report of all convicts released in the district should be presented to the board. In suggesting this, Mr. Organ said he was not stating a theory, it was simply what he had himself been doing, under the Irish Board of Directors, for the last nine years. The following were the chief duties which it entailed upon him. 1st. Finding employment for the men discharged from the intermediate prisons. 2ndly. Carrying out a constant and detailed supervision. 3rdly. Preparing a fortnightly report. 4thly. Keeping up a correspondence with the discharged prisoners. 5thly. Providing hospital accommodation for the sick, and workhouse shelter for the aged and infirm. Mr. Organ thought similar action in England would be productive of much good. He was also of opinion that emigration was the best final destination of the discharged and reformed convict.

REFORMATORY SCHOOLS.

Mr. C. H. BRACEBRIDGE contributed "An Analysis of the Report on Reformatory Schools," on which he made the following remarks. "It would seem that a circular from the Home Office will require magistrates to enforce some payments, however small, being fixed upon parents, and the parties looked up if possible by the constabulary. The stop to the steady reduction of commitments which have been reduced from 14,000 to 8,000 in a few years, can only be accounted for by some yet unknown law of crime. But this stationary state compares favourably with the adult convictions. The average cost of reformatory schools is—males, just under £20 per head; of females, just under £17 per head; average per head weekly food, 2*s.* 8*d.* boys; 2*s.* 5*d.* girls, in England. The want of reports of behaviour after discharge is still felt, especially in the Roman Catholic reformatories. The absence of any remark as to a

penal reformatory, makes it probable that Government has paid no attention to the repeated requests of many managers for such an establishment. Mr. Bracebridge regretted that no measures were taken to prevent children from falling into the hands of abandoned parents, as they too often did.

Mrs. CHRISTIAN NICOLL contributed a paper "On the Management of Reformatories for Girls," which dealt with the details of discipline and instruction in those schools.

PREVENTION OF CRIME.

Mr. A. O. CHARLES read a paper "On efforts to Prevent Crime," in which he noticed the more recent steps in the direction of prevention. The Act for the closing of public houses and refreshment houses, and that for providing for the vagrants and casual poor of the metropolis were important preventive measures. The former had in a few weeks reduced the nightly charges at some of the police courts to about one-tenth of their former number, the latter, by giving a refuge to homeless wanderers who through misfortune or misadventure had to pass the night in the streets, prevented many from becoming the associates of thieves, and stealing to procure the food and shelter of which they stand in need. He also noticed the improvements lately effected in the convict system, and the efforts to aid discharged prisoners. Among voluntary efforts he noticed the Home for little boys established at Tottenham, for children under ten years of age who are in danger of falling into crime; and the shoeblack and rag-collecting brigades for giving employment to those who did not require a home, but to be rescued from idleness on the streets. Among efforts still needed to complete the machinery for the prevention of crime, Mr. Charles specially mentioned refuges for female convicts and the means of training destitute boys for the navy.

Mr. GEORGE HARRIS read a paper "On the Various Modes devised at different Periods for the Punishment of Criminals and their influence on Civilisation." The paper was illustrated by diagrams representing the barbarous modes of punishment inflicted by the nations of antiquity, in the middle ages, and even in later times. Mr. Harris considered the public executions in our own days a remnant of these barbarities.

GENERAL AVERAGE SECTION.

THIS Section, consisting chiefly of representatives of Foreign Governments, Chambers of Commerce, Boards of Underwriters, and other public bodies, met as the Third International General Average Congress* to consider a Draft Bill framed by the General Average

* The First Congress was held at Glasgow in October, 1860: the Second at London in June, 1862. See *Transactions*, 1860, p. 290; 1861, pp. 733, 791; 1862, p. 902.

Committee for the purpose of establishing an International Code of General Average Law.

The following, among others, were present :—

Edward Crusemann, Esq., Chamber of Commerce, Bremen; Charles H. H. Franck, LL.D., Chamber of Commerce, Hamburgh—Chamber of Commerce, Lubeck; Theodore T. Engels, Esq., Belgian Government—Chamber of Commerce, Antwerp—Board of Underwriters, Antwerp; Jules Delahaye, Esq., Comité des Assurers Maritimes de Paris; G. Kamensky, Esq., Russian Government; Captain E. T. Gourlay, Sunderland Corporation; Dr. E. N. Rahusen, Netherlands Trading Company; Dr. J. Wertheim, Board of Underwriters, Amsterdam; D. W. Mackechnie, Esq., Average Adjuster, Glasgow; Henry J. Atkinson, Esq., President, Hull Chamber of Commerce; William Bonar, Esq., General Shipowner's Association, London; Ed. Van Peborgh, Esq., Belgian Government—Chamber of Commerce, Antwerp—Board of Underwriters, Antwerp; J. A. W. Harper, Esq., Salvage Association, Lloyd's; Captain Halsted, R.N., Lloyd's; L. R. Baily, Esq., Average Adjuster—Chamber of Commerce, Liverpool; P. H. Rathbone, Esq., Chamber of Commerce, Liverpool—Chairman of the Underwriter's Association, Liverpool; R. Lowndes, Esq., Average Adjuster—Chamber of Commerce, Liverpool; J. W. Hale, Esq., Average Adjuster, London; R. M. Hudson, Esq., Shipowner's Society, Sunderland; John J. Kayll, Esq., Sunderland Corporation; J. Russell Bradford, Esq., Average Adjuster—Board of Trade, Boston, U.S.—Board of Underwriters, Boston, U.S.; Hon. Judge Marvin, Chamber of Commerce, New York—Board of Underwriters, New York; W. T. Jacob, Esq., Shipowner's Association, Liverpool; William Richards, Esq., Average Adjuster, London; Manley Hopkins, Esq., Average Adjuster, London; Joseph Greated, Esq., London.

The Section sat on the 26th, 27th, and 28th of September. The President of the Department took the chair on the first day, and Sir Fitzroy Kelly, Q.C., M.P., on the two following days. Mr. E. E. Wendt, Vice-President of the Department, and Chairman of the General Average Committee, also presided on more than one occasion, and opened the proceedings of the Section with a statement detailing the history of the question, and the steps that had been taken up to that time to carry out the resolutions passed at Glasgow in 1860.

Mr. Richard Lowndes, of Liverpool, the secretary of the General Average Committee, acted as secretary of the Section.

A letter having been read from the chairman of Lloyds, stating that the Draft Bill had been framed for the purpose of effecting an alteration solely in the English law, and an explanation having been made by the secretary of the Section that this letter must have been written under a misapprehension, it was, on the suggestion of the chairman, resolved :—

"That the object of this Congress is simply to carry out the Glasgow resolution passed on September 27, 1860; and, that it is by no means intended that the Bill should be passed only by the English Legislature, but that, in the terms of that resolution, it should, when perfected, be recommended to the legislative authorities of all commercial nations, to enact the same into a law."

The Draft Bill was then considered clause by clause, and the following resolutions were finally passed :—

1. That a short report of our proceedings be at once drawn up by the secretary, and presented to the Council of the Social Science Association, with a request

that it be entered on the Minutes of the Association; and that a copy of the same be furnished to each member of the committee.

2. That a further report of the proceedings be afterwards drawn up by the secretary, printed, and circulated.

3. That the Draft Bill, as now amended in Congress, ought, in the opinion of this Congress, to be the basis of international general average law.

4. That in order to carry out this object, associations should be formed or other measures taken in each of the countries represented in Congress, and in other countries where practicable, for the purpose of causing this Bill to become the law and practice of such country.

5. That this end should be pursued through the legislature of each country where practicable, and also, pending legislation, by means of clauses to be introduced into Bills of Lading and Charter Parties.

6. That the clauses recommended for this purpose be the following:—"All claims for general average to be settled in conformity with the International General Average Rules, framed at York in 1864."

7. That, for the execution of these resolutions in each of the places represented in this Congress, the following representatives be appointed in the name of the York Congress:—

HOLLAND—E. Driebeck, LL.D.; E. N. Rahusen, LL.D.; J. Wertheim, LL.D. BELGIUM—Theodore J. Engels; Edward Van Peborgh. MAINE (STATE OF)—J. R. Bradford. NEW YORK (STATE OF)—Hon. Judge Marvin. BREMEN—Edward Crusemann, LL.D. HAMBURGH and LUBECK—Charles H. H. Franck, LL.D. ENGLAND—H. J. Atkinson, Hull; L. R. Baily, Liverpool; E. Temperley Gourley, Sunderland; R. M. Hudson, Sunderland; W. T. Jacob, Liverpool; W. J. Lamport, Liverpool; Richard Lowndes, Liverpool; D. W. Mackechnie, Glasgow; P. H. Rathbone, Liverpool; E. E. Wendt, London. FRANCE—Jules Delahaye. PORTUGAL— RUSSIA—G. Kamensky. DENMARK—S. Gram; Jacques Suenson; Edward Thune.

8. That the representative or representatives of each country or place, as named above, shall charge himself or themselves with the task of organising an association or committee for such place, or taking such other measures as in his judgment shall be best conducive to the carrying out of the purposes laid down in the foregoing resolutions.

9. That each local association, organised as above, or the representative himself in the absence of an association, shall make an annual report to the council for the time being of the Social Science Association, setting forth what progress shall have been made in his or their district; and that such annual reports shall be continued until the task assigned to such local association or representative shall have been completely accomplished.

10. That in case any country or place, not here represented, shall hereafter wish to join in this movement, the Council for the time being of the Social Science Association shall have power to appoint a representative or representatives for such country or place, who shall then have equal powers with the representatives here appointed.

11. That the cordial thanks of this Congress are given to the National Association for the Promotion of Social Science, for the very valuable services which the Association has rendered to the Congress.

12. That the objects of this Congress having been attained, this Congress and the "International General Average Committee" be now dissolved.

In accordance with the second of the above resolutions, a full and accurate report of the proceedings of the Section has been printed and circulated, to which those members who are specially interested in the subject are referred.

EDUCATION.

Report of the Standing Committee of the Department.

THE most notable event in the history of the year so far as education is concerned, has been the publication of the Royal Commissioners' Report on Public Schools. This document is one of the most valuable contributions which have yet been made to the statistics and to the literature of the whole educational question. It comprehends a specific and detailed account of the nine great foundation schools, and a body of special recommendations applicable to the case of each. An important portion of the Report deals with the subject of Public School education as a whole, and contains, in reference to the legal constitution, the internal management, and the curriculum of instruction, some recommendations which are designed to apply generally to all the great foundations. The facts which have thus been accumulated by the Commissioners, and the recommendations which they have founded upon them, are now before the world, and are receiving both in this Association and out of it the attention which they deserve. Whatever difference of opinion may exist as to particular suggestions, there can be no doubt that the Report comprehends exactly the *data* which are needed for a full discussion of the whole subject, and possibly for future legislation upon it.

The Council of this Association, in the recent session of Parliament, presented a memorial to the Prime Minister praying that a similar Commission might be nominated with power to inquire into the condition of the smaller grammar schools, and into the provision for middle-class education generally. It has recently been announced on authority that such a commission will be appointed. The field of inquiry is much wider, and not less important than that occupied by the investigations of either the Commission on Popular Education, or the Public School Commission; and we may look forward with hope to a full investigation, following these two valuable precedents, into the means at present existing for the education of the middle classes, and into the various proposals for improving and extending them.

As regards the administration of the parliamentary grant, the only important change which has received the sanction of the legislature during the year, relates to the endowment question. The Committee of Council proposed to deduct the total amount of any endowment possessed by an elementary school from the sum which

would otherwise be claimable by the managers, as a grant under the Revised Code. This measure was strongly resisted, and in deference to the wishes expressed in Parliament, the Government have consented that small rural schools shall be exempted from the operation of the new Minute, and shall continue to receive the full amount of the usual grant, provided that the grant and the endowment together shall not exceed the rate of 15*s.* per scholar, on the average attendance. It is not to be understood, however, that this concession has set the question at rest, inasmuch as notice has already been given by Mr. Adderley of a motion which will re-open the whole subject in the approaching session of Parliament.

The attention of the House of Commons was also directed on several occasions to the subject of the General Reports annually presented to Parliament by Her Majesty's Inspectors of Schools. A committee was appointed to investigate the practice of the Education Office in this particular, and to report thereon to the House. Although no formal resolution or new Minute of Council has been made, this inquiry, and the discussion which arose out of it, were the means of eliciting from the House of Commons and from the public, a strong expression of opinion on the subject. The general result appears to be, that while some supervision over these reports is right and necessary, and while a general submission to the principles which have been sanctioned by Parliament may fairly be required from the inspectors, it is yet of the highest importance that they should feel at liberty to state the results of their experience without reserve.

The history of the year has enabled school-managers and the public to measure for themselves more accurately the probable effects of the Revised Code. Some of the worst apprehensions respecting this measure have not been realised. One result has been to diminish the amount required from Parliament to £720,000. Besides this, the provision which grants a lower class of certificates to certain teachers, has enabled a lower class of schools to avail themselves of the advantages of inspection and of participation in the grant. These two facts indicate that, as a rule, schools have received grants somewhat smaller in amount than heretofore. But it seems that a sum of about 9*s.* 3*d.* per head on the average attendance of scholars is generally obtainable by managers, and that this sum may easily be raised to 10*s.* wherever the children are efficiently taught and due care is taken to secure regularity of attendance. Managers are beginning to find, also, that there is one important incidental advantage in the new system of grants. It enables them to measure, from year to year, the progress and success of their schools. Under the former system the grant remained constant, so long as a certain staff of teachers was kept up, and was not diminished except in very gross cases of neglect or failure. Under the present system the fluctuations of the grant will be found to indicate, pretty closely, the relative condition of the school in successive years. What effect the new measures will have on the higher instruction and on the general culture of the children; and how far the greater accuracy in reading,

writing, and arithmetic may prove to have been gained at the expense of religious instruction, and of that intelligence and life which are so important in an elementary school, remains to be seen. It is easy to estimate the pecuniary results of the Revised Code after the lapse of a single year; but it would be premature to pronounce any judgment as to its effects upon the due supply of pupil-teachers, the status and qualifications of the schoolmasters, or the general condition of the schools, until the experience of two or three years at least shall have been accumulated, and afforded the material for a wise conclusion on these important questions.

One other topic, in which the Association has for some time evinced deep interest, remains to be noticed. The proposal to admit girls to the Oxford and Cambridge Local Examinations, and, under certain conditions, to the degrees of the University of London, has more than once been discussed in this Department. A very important step has been taken in connection with this matter during the past year. The Cambridge Syndicate consented to permit the use of their papers, at their last examination, by a committee specially appointed for the purpose. Eighty-three girls presented themselves. The examination was held simultaneously with that of the boys, and the University regulations were strictly observed, the only difference being that the girls were examined in a separate room, and under the supervision of ladies. Their answers were subsequently looked over by the Cambridge examiners, and a list of the successful candidates was issued. The experiment was a most valuable one, none the less so because the large number of failures in the preliminary examination, and especially in arithmetic, as compared with modern languages, revealed, in a strong light, the deficiencies in the ordinary elementary teaching, and the necessity for some improvement. A memorial which has been signed by 900 teachers of girls of the upper and middle classes is about to be presented to the University of Cambridge, and it is probable that the authorities of both Universities will soon be willing to do officially and permanently what, in this instance, was done in a tentative and quasi-private manner.

PUBLIC SCHOOL EDUCATION.*

The Report of the Royal Commission on Public Schools. By the REV. DAVID MELVILLE, *Hon. Canon of Worcester.*

THIS Department was never engaged on a more important or more interesting branch of its subject, than that which, under the request of the Committee, I have now the honour to introduce.

* For the Discussion see Summary of the Department.

And this importance and interest is not confined to the subject itself. If ever that high title this Association has assumed, viz.: that, of scientifically regarding the problems of social life, could be vindicated in this Department, the phenomena of public school education offer an opportunity. If ever again, that which we may hope for as the beneficial product of such association, is to be desired—namely, a wiser and more secure public opinion on points of great moment which public opinion must direct, that product is desirable here. For after all the minute care and exhaustive research of the Commission, the formal recommendations are comparatively few, the positive enactments or direct interferences resulting from these we shall doubtless see will be much fewer still. For the rest, indeed for almost all of the deepest concern, the question must be left to the enlightened intelligence of the community, and its effect on the great educational institutions, which enlightened intelligence it is the function of this Association at the same time to express and to promote.

The Report has been submitted to the Queen and presented to Parliament—and parliamentary action may, and some doubtless will, ensue upon it—but it is before the great jury of public opinion that it is really laid, and upon that it must depend for its real motive power. And the great value of the Report after all will be found to be, not its specific remedies for ascertained disorders, but the ample opportunity for comparison and digest, which the results of the inquiry afford. Blue Books before this of the deepest wisdom, and most beneficial tendency, treating too of the greatest subjects and most historical interests, have borne no fruit beyond their own records, just because they were out of the range of this influence; and in so saying let us measure our words, and present them in their sterling worth and meaning. It would not be well, nor becoming the aim and object, as I understand it, of this Association to pass lightly over the real responsibility such position conveys. We say the question will be very much left to the enlightened intelligence of the community. Depend upon it, it was that working in its degree, which has carried the question so far as it has gone, and which must carry it even farther, if farther it is to be carried. But what is it which such a state of the case postulates? Why! that the highest work of education is no longer to be left to accidental influences, but is to be the clear and conscious apprehension of the great mass of those who require it. That the acquiescence of society in a course or system, is not to be the mere passive submission to what is proposed to it, but the inference of its deliberate judgment. That a dominant system is to be such, not through its own absolute determination, acting first on the ignorance and then on the prejudice of those whom it affects, but through its conformity to their reasonable and informed conclusions. In our higher education, unlike our lower, it is not the desire to possess the prime prompting of demand which has to be stimulated, but an intelligent apprehension of what it should desire; for since our public schools, more perhaps

than any other institutions, reflect the mind and character of that world outside them connected with themselves, public opinion, or society, or the parent class, must attain themselves just and determinate views on the wants and requirements of the educational question if they would have them met by the great educational bodies. Mere mischief would be done if Government were to cut short the process of deliberation by the exercise of political power.

The Commissioners felt clearly on whom their conclusions would mainly depend for their practical determination. In their introduction they say—"Some of our recommendations will require, if approved by your Majesty, the aid of Parliament to carry them into effect; but the greater number of them are such as cannot properly form the subject of legislation, and indeed are virtually addressed to the governing bodies and head-masters of the schools." They are addressed indeed to a larger circle. If change in any degree is required in the work of education it must rather wait upon than anticipate public opinion. What we want is a steady determination to view the matter by the calm lights of reason and experience, and not, if we can help it, through the mists which prejudice, mere sentiment, or inert thoughtlessness, are apt to exhale. This reference to the influence, necessarily, of public opinion on our public schools, obliges, almost, a passing glance at their history and phenomena.

Not only are these schools the peculiar product of our soil, but they are most interesting and curious mirrors of our history and character. From the period when they originated till these latest days—the features of our literary, social, almost our political life are impressed on their annals. They are counterparts in their process of the great water-courses of our land. Hiding their heads, comparatively, in some small and remote beginning, they pass on in ever increasing volume, mirroring as they pass the old ecclesiastical corporations, the lordly lands and their powerful owners—the gradually growing influence of the middle class, with the claims on social and educational advancement which wealth confers, till as now, the local and circumscribed, however beneficial, design of the simple origin, is lost in the vast influence and success, of which their busy and thriving harbours are at once the cause and effect.

We need not travel out of the record to show how our national character at the same time affects and is affected by our public schools. No passage in the Report strikes the reader more for its force of expression than that in which, summing up the results of these institutions, it says: "It is not easy to estimate the degree in which the English people are indebted for the qualities on which they pique themselves most, for their capacity to govern others and control themselves, their aptitude for combining freedom with order, their public spirit, their vigour and manliness of character, their strong but not slavish respect of public opinion." "Its growth," they say, again speaking of the system, "no doubt is largely due to those very qualities in our national character which it has itself contributed to form." In fact our public school system grew, and was

not made to order, and progress and tradition were the twin circumstance out of which it grew ; the one casting the other into a more modern or a more antiquated mould according to its preponderance in the particular example. To such an extent indeed has this proceeded in the largest and most prominent example, that what ought to be, and ordinarily is, the passive recipient of a character authoritatively impressed, itself has usurped the primary and directing influence ; and at Eton whilst masters look on, the boys regulate, on the mere authority of physical supremacy, the traditional influences of the school. Not that I would in the least discredit cricket, boating, and football. If Waterloo was not actually won in the playing fields of Eton, these pastimes are charged with such moral as well as muscular consequences, that there is more truth than error in the assertion. Only it were scarcely more absurd to have made the Duke of Wellington head-master, than to let "the eleven" and "the eight" sway the tone and character of the school at large.

Our great public schools having thus grown out of national conditions, advantages and defects at various stages are traceable to the varying aspects of the community at large. And so we are again led to the conclusion that the community cannot stand idly by, whilst the problems involved in them find solution.

The improvements in the tone of modern society have found their full recognition, and perhaps the evils that may still mark such features as fagging and bullying may well be left to the influence of that outer world, which always most surely, especially in young and imitative natures, finds its echo within.

But before we pass to the results of the labours of the Commission, let us pay a faint tribute to their discharge.

Never was work more truly yet considerately performed ! Never was the bright sunlight of thought and observation brought to bear more searchingly yet lovingly on existing phenomena ! And the result is a most luminous and clear photograph of our public-school system, as illustrated in nine typical examples. And if, as is the nature of such transcripts, those features on which of necessity the light falls most strongly, find an almost undue prominence over the rest, still it is but in the action of an almost involuntary law, and without the exaggeration or disparagement of wilful prejudice.

Doubtless the Commission, in the humility of true power, would claim for itself—at best, that which the Roman poet claimed—the industry and method of the bee, and might seem in that to disclaim all elevated and original operation ; still, truly viewed, the tribute herein is not slight to labours which find, and those of this Commission do justly find, their fit comparison in that type of a workman, who not only gathers in all likely material, but proves himself out of them the subtlest of chemists and the wisest of architects.

The origin and history of the Commission need not be told here. How excellent the selection of its members,—how exhaustive their

processes of inquiry,—how close their attention,—how comprehensive and minute their record.

The Commission was issued in July, 1861. In October the questions were issued. In May, June, July, 1862, the schools were visited. Between May, 1862 and 1863, 130 witnesses were examined. The Commissioners held 127 meetings, and in March, 1864, the report was issued.

From "drastic" questions (as Mr. Gladstone rejoices to think them) to personal inspection, nothing was omitted which could supply information; nothing, except that proposed examination of each of the nine schools, to which all the head-masters, except the two whose schools perhaps had least to apprehend from the ordeal, expressed a decided dislike.

The terms of the Commission directed inquiry into the three heads of:—1, Finance, or the revenue. 2, Government. 3, Instruction, its scope and its methods. To fulfil, in fact, that which long ago Bacon noted as a remedy for possible defects in seats of learning,—"to enter into account and consideration whether the readings, exercises, and other customs belonging to learning, anciently begun and since continued, be well instituted or no; and thereupon to ground an amendment or reformation in that which shall be found inconvenient."

Now, it is obvious that of these three topics, that which is least directly cognizable, or at least corrigible, is the most interesting. In fact, that which least of all, if at all, could have gained, however much it may require, a formal investigation, under the sanction of the Crown and Parliament, is that to which in interest and importance the others are subordinate. The endowment it is which carries in such cases the inquiry. Institutions, which are merely private ventures, could not be made legitimately the subject of state inquiry, except there were reason to apprehend a criminal abuse. Endowments, however, being protected by the state, and receiving certain peculiar tokens of state care, as the greater freedom of testamentary power, legitimately may have the methods and results of the institutions they support, submitted to state inquiry. And this distinction we shall see affects the report of the Commissioners, necessarily. The directness and positiveness of the conclusions are in inverse ratio to the seeming importance of the subject. Hence, that which the authorities who issued the Commission can do in the way of corrective, is confined to that which from its nature would justify the interference, and that which most stirs the thought and tries the judgment of men, and makes the pervading interest of the question, namely, the moral and intellectual teaching and training, must wait for all change or remedy, if such are required, on the consideration and opinion of those engaged in conducting, or interested in improving the highest education of the country.

The question between the relative claims of the classics, modern literature, and science, as instruments of education, will, we may

hope, be gradually solved, as all such questions are solved in countries where opinion reigns, by public opinion formed on comparative experience, and recorded by those who give themselves to the theory or practice of education. The direction public-school education shall take depends on what the exigences of society indicate, and the mind of society approves. Thus, by another path, are we led again to the responsibility and importance of the wider diffusion of sound and sensible views.

The Report is divided into two parts—the first, general; the second, special. The first, embracing the treatment of the question as a whole—applicable more or less to all schools throughout the country, of which the nine schools were chosen examples. The second, the particular and detailed application to each of those nine schools of the principles the first section lays down. Nothing, however, would be farther from the Commissioners' intention than a Procrustean process. A family of institutions, of which, from their portraits as drawn in the evidence, it may truly be said, "facies non omnibus una, hec diversa tamen, qualem decet esse sororum," requires, they felt, circumstantial variety, whilst there is essential agreement beneath. At the same time, whether we regard those utterances—anonymous, or otherwise—of doubt or discontent, which first whispered the question, those after more clear indications in Parliament or out of it, the constitution of the Commission—its proceedings, and suggestions, what it so clearly and eloquently approves, what it less decidedly reprobates, what it says and does not say—we feel that Eton is the institution which originated, justified, and shaped the entire investigation.

We will then just successively state the main conclusions under each head of the first or general division of the Report—foregoing altogether the second part, however valuable in itself and interesting to many of us, except so far as reference is required for illustration—and then confine ourselves to that which, after all, is the important point—important in itself and the judgment of the community on which it depends,—namely, the Public School System of Education.

On the first branch of the subject, the endowments or revenues or finance generally, we must distinguish between the fixed and the accidental—that which does, that is, and that which does not depend on the success of the school.

The effect of endowment were an interesting problem in itself. Eton numerically and socially is a great success, with an endowment for school purposes of £14,000 a year. Harrow is not a less success, with appropriated funds not exceeding £1,000 per ann. To either of these, possibly, as they are, the lesser or the larger endowment is an unimportant matter; and whilst we may admit the truth of what the Commission urges, that "an endowment is of great service in enabling any school to provide and maintain suitable buildings to attract by exhibitions, and other substantial rewards, clever and hardworking boys, to keep its standard of industry and attainment,

and to bear the fluctuations to which all schools are liable," yet it would be valuable to know how many schools or other educational institutions are suffering by what someone has called a determination of funds to the head, are dying or have died because pay and duty bore no fair proportion each to the other, either in amount or obligation, and are examples of that head-master, a noble lord* referred to the other day, who having hunted away his last scholar, was a gentleman at large with £300 a year.

At all events, whilst the Report speaks as just quoted with regard to endowments, in another passage, it says, "the total endowments of the five masters, who with Dr. Kennedy, constitute the classical and mathematical staff at Shrewsbury, hardly amount altogether to the annual sum (£1,400 per ann.), of which a young classical assistant at Eton commonly finds himself in possession within a few years after he has entered on his duties." Whilst as to the results as proved by academic distinctions, of Eton they say, "the distinctions gained by Eton men when compared with the numbers of the school, do not certainly entitle it to rank among those most successful in this respect." Whilst of Shrewsbury, whose chief stimulant they admit is as it ever has been, the hearty pursuit of the school work for its own sake, they close the record of its university successes with "the extent to which this small school contributes to the teaching power of the universities is not a little remarkable."

With regard to this permanent item of the finance or revenue of a school, the recommendations of the Commissioners will doubtless reform the abuses, though they cannot correct the inequalities. Money will find its way where it was intended, and in such proportions, possibly, as the donors, if now alive, would have intended. Leases are to be run out, and the fines as well as the rents brought into the general account, and that curious contrast which ancient societies are apt to present between the principle which regulates upper and lower payments, is to be done away. Scholars on the foundation will receive all the assistance the funds and the design will admit, and the administration of the funds will be under the Governing Board, which itself will be remodelled, so as to secure greater breadth and independence.

Such results affecting the public item of the finances—namely, that which depends on endowment—we may feel sure will take place. These are not days when pecuniary disorders can be maintained, when once light is let in upon them, however sensitive may be the regard of so-called vested interests.

In the power conferred on these governing bodies, for revising existing statutes, another great stumbling-block to efficiency will be removed. I refer to the possible plea of desuetude. Laws and ordinances guarded on the one side by most stringent obligations, and blocked on the other by obsolete conditions—an instrument at

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* Lord Harrowby, in giving prizes in Staffordshire, Sept. 1, 1864.

once contracted and capacious—affording a conscientious scruple or a laxity of interpretation just as may be convenient. Experience has proved that no anticipatory provisions can bar the plea of desuetude, as history and its consequences cannot be forestalled; and so the only course is to anticipate the evils resulting from obsolete forms and conditions, by giving such powers of adaptation and amendment as shall prevent their becoming so. But that part which is more private, and which we have called accidental, is a more delicate matter.

That, as we have said, which justified and called for the inquiry, is that part of the fund which may be regarded as public, and partakes of the nature of a trust, for which account has to be rendered; but compared to the whole revenues and financial results, these are in the most leading examples of comparative insignificance, and with regard to their influence on the course, and method, and regulation of the schools themselves, of little or no account whatever. In fact, we may say of the two leading examples, that taking the foundation as the essence and the accretion of independent elements, though in some degree originally recognised, as the accidents of the institution, the essence and the accident have exactly changed places.* The private venture has overlaid in prominence the public or foundation interest; at the same time, in remarking upon this result, we should not shut our eyes to its possible advantage to the original foundation. Whatever might have happened to the schools attached to collegiate foundations as Eton, Winchester, and Westminster, there is no reason why Rugby and Harrow should have assumed the prominence they do on their foundations merely, or except through the name and numbers they acquired from circumstances quite independent of the foundation.

We may take two examples to show what proportion endowment bears to accidental revenue. The head-master of Eton returns his net income for 1861 as £4,572 6*s.*; of this sum only £215 is received from the original foundation, the rest depends on the success of the school; whilst at Harrow, out of a net income of £6,288, the head-master only receives from the foundation £50. It is clear, then, how the private adventure part really contributes a valuable teaching staff to the public portion, and so may have made the whole present character of the school. In fact, except for these remunerative conditions, the scholastic profession would never have attracted the great intellect and energy it has.

Much, of course, which affects these circumstances, must be left to those ordinary laws of supply and demand which regulate them. Leaving the connection between the foundation and non-foundation

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	Foundations.		Non-Foundations.
* Eton	61	...	722
Harrow	33	...	431
Rugby	68	...	397

as it is, schools which draw their scholars from the wealthy classes, like Eton and Harrow, can still charge high prices, whilst others must accommodate their charges to their customers, regard being had always to the maintenance of such teaching power as is qualified to attain the end looked for. There are valuable examples of this kind of experiment in Cheltenham and Marlborough colleges, where all that is true in public school life and education, is economically and sensibly, and yet most successfully pursued, without original endowment or direct historic association.

But the Commissioners would make this kind of commercial speculation less dependent in its working on the will and discretion of the head-master. The governing body will discharge many functions which now the head-master fulfils. All control of income and expenditure, the regulation of boarding-houses, of fees and charges, of master's stipends, should, they think, pass to the governing body. And as guiding principles in the discharge of such duty they suggest that the charges for instruction, and boarding, or domestic care, be distinct. That for instruction one charge shall cover all the subjects in the regular course of study; leaving fees abolished, and entrance fees if retained, added to the instruction fund; and out of this fund the head and assistant masters should be paid, in such proportion as the governing body may determine. In the draft of a scheme which the Commissioners annex for Eton, they propose still to leave the head-master with £4,000 a year, whilst parents will cover all payments for £120 per annum.

A similar scheme assigns £4,000 per annum to the head-master of Harrow, which has only 400 boys, whilst Eton has 800. It is hard to understand why parents should pay so much more at Harrow than at Eton, as would be necessary in order to maintain seemingly this equal payment on half the numbers. But such alterations as these can only take place through the agency of the governing bodies of the schools, which offer in themselves as they are a likelihood of change in inverse proportion to its requirement. Hence the Commission frees itself from Mr. Gladstone's apprehension of "executive timidity," and recommends organic reform in the bodies themselves, hoping, and not unreasonably, that what they desire in detail will follow.

All public schools have some body or other who legally hold and transmit and manage its property, and discharge the trusts that property entails. In the schools attached to collegiate bodies, as Eton, Winchester, and Westminster, it is the provost, or warden, and fellows, or the dean and chapter, or it is a company, or feoffees, or trustees, or governors, as at Charterhouse, St. Paul's, Rugby, and Harrow—acting under some legal instrument as statutes, charter, Act of Parliament.

As would be likely those schools have best answered their desired ends, wherein the governing body had the good sense to choose the best man they could find as their head-master and then leave him

to work as freely as he might.* Harrow, Rugby, and Shrewsbury have not bound themselves to select Harrow, Rugby, or Shrewsbury men ; but the schools which most affect public school character, especially Eton, have been tied up to the narrowest and most exclusive circle. And herein, as in other particulars at Eton, we have this very curious phenomenon—that whilst, as we have said, an entire revolution has taken place in the school, and the permitted but subordinate element has become the predominant one, and the foundation comparatively insignificant in relation to the whole school; the system of government and appointments proceeds just as if this institution did not exist, and Eton College and school, with its outlet at King's College, Cambridge, were the whole story.

The Cambridge University commissioners had the opportunity of correcting this, as the Oxford commissioners did at Winchester and New College, but they did not take advantage of it. This vicious circle the Commission proposes to enlarge if not to destroy. The head-masters will be more free of the governing bodies; yet the governing bodies in some particulars more administrative of the schools. For whilst they are to elect the head-master whencesoever they can get the best candidate, and then leave him free to manage the work of teaching, not only all revenue questions, but all that affects the constitution of the schools in their domestic and educational character, their accommodation, fees, vacations and studies, viewed as a whole, are to come under their cognizance. In order to guarantee as far as may be the liberal and wise discharge of these functions, certain honorary members, chosen by the Crown from among men eminent for literary or scholastic acquirements are to be added to the existing governing bodies.

There is a lesser recommendation which as one of general application hardly seems so wisely conceived. There is to be a school council—consisting of the head-master and his staff. No one can doubt the value—almost the necessity—of frequent conference and consultation. It appears, indeed, to be the practice just where you would expect it—and, perhaps, not to be just where one would not expect it—but because Eton displays a want of harmony in many points between the head and the hands, and often between the hands relating to each other, were but an awkward reason for putting under a legal ordinance, which by its very terms † might stimulate

* Eton peculiarities seem to have directed general conclusions. Eton, from its numbers and other causes, not being under the mind and will of one head, as a school ought to be, but being a confederacy of schools, under many and often conflicting heads, as the evidence shows: a school council is universally proposed to harmonise this discordance. The collegiate head—the provost—overriding the scholastic head—the head-master at Eton, a reform in the governing body is proposed for all schools, to check or interfere with, in other cases, the head-master,—at Eton to set him more free. Do Rugby or Harrow want either nostrum ?

† The school council recommended by the Commission, recognises the place and voice of the assistant-masters, and gives power to call in the aid of the governing body, whenever a majority think it expedient.

if not invite insubordination and discontent, that habitual consultation, whose very virtue and excellence is its spontaneous confidence.

These, then, on the first two divisions of the subject—finance or revenues and government, are the recommendations of the Commissioners.

It is possible, and even likely, that on them legislative action may ensue—at least, so far as affects the governing bodies—leaving, perhaps, much of the rest as instructions to direct them; opinions, that is, of the Commissioners, carrying such force and weight as the names and circumstances involve. But this question at once arises—why should such direct interference and desirable change stop with these nine typical examples? The fact of their being types will not insure similar institutions adopting that which may be forced on themselves; and if this is true at all, it is most true where change is most desirable. It is hard to say why some schools find themselves among the favoured nine in preference to others in the country, though, doubtless, each has some characteristic feature which marks it off. But will not all collegiate, possibly all endowed schools, which pursue the higher classical teaching, be the better of what is good for the supreme sisterhood? Is it likely that they alone require beneficial interference, and that elsewhere the tenure and application of endowment is so satisfactory, that they in no degree obstruct the natural course of improvement; or is it that these nine examples are so typical, that all the rest revolve around them as satellites, and must perforce adapt their own courses to the central attraction of these larger luminaries. What was done with regard to the Oxford Commission, would seem reasonable here too. It were not very difficult to catalogue the schools in the country to whom the action of the Commission would apply—and then giving the Commission an extended lease, let it leave for a specified time such schools to apply the general recommendations for their improvement, which may be agreed upon, and on its expiration let it find a new scheme for them, if they have not found one for themselves, or satisfied the Commission that things are very well as they are.

But after all, these two parts of the question are but means to an end. It is according as they have not advanced best that end that dissatisfaction has arisen, and inquiry been necessary; it is in the degree that they will promote the better attainment of that end, that all interference and change will be justified. That end is the teaching and training the order of society which these schools embrace—or in one word, the higher education of England.

Now, in testing this, two points arise for consideration—1. As to subject. 2. As to mode.

1. Is what is taught, what it is right to teach?
2. Is the method of teaching it the best?

The first would embrace all the points which belong to what is called the subject-matter, the last, all the machinery of education.

But there is even an antecedent question. Is what is taught, be it right or wrong, learnt in any satisfactory degree?

The Commissioners own this distinction between what is taught and what is learnt; and so set before themselves certain tests, the trial of results, in fact, or the testimony of experiment. The universities, naturally, would be the witness first put in the box, as being the complement of the public-school teaching, and the farther and highest ordeal of a large proportion of public-school boys. The Commissioners truly say:—"The great schools have always educated principally with a view to the universities; the path of access to the learned professions lies through the universities; the work done at school tells thoroughly and directly on the examinations at the universities: the cleverest and most diligent boys, for whom the system of study has been chiefly moulded, have gone to the universities; all the masters have been university men." And it is clear, that in appealing to the universities, the great prizes and distinctions will not avail as proof. Judging by them alone, would be to verify the adage,—"What it hits is history; but what is missed is mystery." The staple of the schools, not a few brilliant threads, is the real subject of inquiry, and that must be sought in the mass of the body that submits to a test, not in the exceptional examples. Every school has a sixth form, and the teaching of it is presumedly an advanced teaching; and though you cannot make butter without cream, and cream must rise from and be supplied by the milk, still the milk may not be as rich as it ought to be, nor yield as much cream, though it yield some. I was at one of these public schools which it was the fashion at the universities to think was all head and no body,—all cream and no milk, in fact. I remember when a boy, still at school, went up at the invitation of an older schoolfellow, resident in the university at the time, to compete for the highest classical honour at Oxford; as the examination, at least, would be a beneficial experience to him—and beating his friend, and many much older men—got the university scholarship, and returned again to school: it was held to be proved to demonstration, that the sixth form of that school was specially and exclusively trained for academical success; and so that such event proved nothing as to the state of the general body. The Commissioners then rightly looked farther than the honour and prize lists; though they are not, of course, as tests, confined to the forms from which they are usually drawn. A school which has continuously a successful head class will have a sound body.

The academic result, as proved by the Commissioners, is as follows:

Of the nine schools taken together, about one-third of those who leave the schools go to the universities; and at Oxford about one-third, and at Cambridge rather more than one-fifth of the undergraduates are drawn from these schools; and of these nearly three-quarters are from Eton, Harrow, and Rugby.

Now, there are two evidences which may be appealed to in the university, as to the condition of its public-school members.

There is the university evidence, and the college evidence. The public examinations, *i. e.*, honour or mere pass examinations, as the case may be; and the testimony of the separate colleges; and this last will vary in importance according to the prominence of the college which furnishes it. The college test is higher or lower than the university test, for the general body of its members, according as its membership is or is not in much request.

Of the university test, we may take as specimens the largest and smallest of the nine public schools under review, which supply members to the university least shackled by foundation-conditions—Eton and Shrewsbury.

Eton, during ten years preceding 1861, seems to have supplied about 600 or 700 members to the universities, and have carried off upwards of 100 of the highest distinctions. Shrewsbury, supplying in the twenty years somewhat upwards of 200 members, carried off also upwards of 100 of the highest university prizes and honours. College prizes and honours, as scholarships and fellowships, are not reckoned herein, and it should be mentioned, that in either example the same men carried off sometimes different honours.

Of Harrow, the result as to university distinctions is much the same as that from Eton; whilst of Rugby, the Commissioners in a note on their report say:—"Perhaps it may be said with an approximation to truth, that of all the men whom Rugby had sent to Oxford in the last ten years, about one in four had gained some open scholarship; one in five had taken a first class in Moderations; one in nine has taken a first class in the Final Schools; one in sixty has gained the Hertford Scholarship; one in ninety the Ireland; one in ninety-five has carried off the Latin and Historical Essays; one in 190 the English Verse. Not one had followed Arnold's example in carrying off the chancellor's prize for the best English Essay." A most marvellous mistake as to the university distinctions of the Dean of Westminster,* considering with how intimate and attached a hand the Rugby report seems to be composed.

The college testimony would of course support the university in this particular. Public school men carry off generally their chief distinctions. So far as to honour-men.

As to pass-men or non-candidates for honours—*i.e.* the staple of the schools—the testimony academic and collegiate conspire also, but quite in an opposite conclusion. Colleges dare not make their entrance examinations as high as they should like, because it would exclude their inmates. The university cannot make its examinations necessary to a degree, what it conceives to be right and desirable, because of the amount of failure it would entail. And this, be it observed, not because those examinations are in new subject-matter, or the same variously pursued. With the greatest obsequiousness towards the ordinary public school course, the testimony of college

* He gained the English Essay in 1840.

tutors and other authorities is almost with one mouth, that there is no general respectable attainment among the mass of boys from public schools of that which public schools profess to teach, and that so the academic course is degraded into a grovelling pursuit still of mere school instruction.

Hence on these two branches of evidence the Commissioners conclude that the public schools send out "the ablest scholars," and also, "the idlest and most ignorant men." But they have two other witnesses, whose results we may as well summarily give,—Sandhurst and Woolwich. Of 122 candidates in three years for direct commissions, 102 succeeded and twenty failed—a proportion much below the average. Of ninety-six who passed their first examination, thirty-eight came straight from school, fifty-eight had been specially taught elsewhere after leaving school.

Of twenty-three candidates for Sandhurst during the same period, eighteen succeeded, of whom eleven came straight from school.

The examination for direct commissions is simple and easy, and was framed to meet the suggestions of head-masters of public schools.

In 1862 the Woolwich examination seems to have been altered because of its damaging effect on public school candidates—being made easier for men "who had not received special training;" but in the three years previous, out of eighty-four candidates thirty-five passed and forty-nine failed; and of the whole eighty-four only two went direct from school.

On these results very grave questions arise. If a body does not grow or thrive as it ought, it must be either because the food is not right of its kind, or not good of its kind if right, or enough of it is not given if both good and right; or if kind, quantity, and quality are all fit and proper, because the digesting and assimilating organs are not healthy. The Commissioners, as we shall see in their recommendations, seem to think there is something to be corrected on most or all of these points; though idleness, or idle-mindedness, being the root of the evil, would seem rather to indicate the last as most responsible for the disorder.

This is their general conclusion:—

"That boys who have capacity and industry enough for distinction, are on the whole well taught in the articles of classical scholarship at the public schools; but they occasionally show a want of accuracy in elementary knowledge, either from not having been well grounded, or from having been suffered to forget what they have learnt. That the average of classical knowledge among young men leaving school for college is low. That in arithmetic and mathematics, in general information and English, the average is lower still, but improving. That of the time spent at school by the generality of boys, much is absolutely thrown away as regards intellectual progress, either from ineffectual teaching of subjects in which they cannot advance, or from idleness, or from a combination of these causes. That in arithmetic and mathematics the public schools are

specially defective; and that this defect is not confined to any particular class of boys."

Here we cannot but regret the want of the examination-test of each school proposed by the Commissioners. Perhaps they would have discovered, allowing for that residuum of incorrigibles or incurables which will be found in all efforts, philanthropic or intellectual, without, in reason, essentially affecting them, that some of these schools were entirely, or very nearly entirely, free from all adverse conclusions on the points noted above—except in some degree that vexed and anxious one about the kind of food to be supplied to the intellectual appetite: and even perhaps it would have been found there was less of possible objection even on this head, just in proportion as the other points were satisfactory. In itself a valuable evidence on this anxious topic. As it is, it is to be remembered that the more damaging conclusions are especially supported by that school whose members and position, as well as its suspected or ascertained results, would have claimed, and did perhaps particularly occasion, the whole inquiry.

What, then, is responsible for the idleness or idle-mindedness—the doing little or nothing—either actually or in effect? The universities throw their responsibility back on the schools; the schools, on the homes or parents; and so practically the Commission takes up the remedy at the point to which the evil has been tracked. What, then, will stimulate the parent class? The power, they think, to refuse admission at all unless a certain standard is previously attained in classical and arithmetical knowledge, and in some modern language, in addition to which one commissioner most ingeniously and elaborately argues for natural science, as a preliminary element; and then the power also to return a boy during his school course on his parents' hands, unless his progress in the school keeps pace with his advance in years. The trial by results and the grouping by age being necessary elements in a sound school theory in the opinion, seemingly, of the Commissioners! Excellent provisions doubtless if you could insure their fair and equal application! A necessary condition of such a result would be the initial and other examinations being conducted by independent examiners, agreeing on, and faithfully maintaining, a common standard. Else, though no one would charge our largest public schools in any sense with being commercial ventures, where the object is the largest returns at the least cost, it is hard to expect that any school not pressed by public demand, will run the risk of empty benches for the sake of its own educational relief. Schools, like colleges, would carry this out just in proportion as it really relieved itself by so doing, without at all endangering its numerical success. Rugby, of course, like Balliol College, which it has so fed, could more than afford to adopt the recommendation, whilst on others it would not only not be a relief, it would be positively penal. If, however, the recommendation and what is said in its behalf, makes only the parent class have more comprehension of the end, and more anxiety about the means of

the education of their children, great good will have been done. We complain bitterly of the home hindrances to our lower education, whilst the higher homes, it would appear from the Report, are anything but as auxiliary as they should be.

The practical difficulty would be—though it is not necessarily to be expected that flourishing public schools will much consider it—where are to be receptacles for the very backward? where are the incorrigibles and incurables to go to? Eton has a lower school, so has Marlborough, the best modern public school, as a branch of itself. Might not some penalties in the way of increased pay be attached to the greater care and more individual teaching required of boys in them, and each large establishment have such a refuge in its own preparatory school, the degradation and expense of which might tell on the parents and private preliminary teachers.*

But "ineffectual teaching" is glanced at as conspiring with idleness in producing the low average of knowledge.

In the recommendations we have not much direct proposition remedial of this. Such as are indicated, are variety of subjects, greater simplicity in the class arrangement, and merit—not mere age or standing—as the ground of promotion. Passing by for a moment the question of the subject-matter taught, surely what is wanted is reality and recognised value in the school work.

Praise and blame are the incentives to exertion in young natures; to succeed through effort, or to fail through want of it, to be conscious through a known and obvious result that industry in school work secures approbation and success, and that idleness insures defeat and disgrace, would secure to a school system its surest stimulants. These are the tonics the digestive organs need.

Multiplication of objects under the fancied attractiveness of some, may only pass the idleness on to a less worthy educational subject. Work for its own sake is not to be expected. Parental approbation as a motive, implies in the parent a discrimination and judgment in the matter which are declared to be wanting. Increase of prizes within a school can but have a partial application; but if school work in every part be made a reality, and lessons, whatever the subject, to influence progress, by a strict record of the way they are done; and by, say, a monthly arrangement of the classes, according to the noted result of the lessons, with periodical examinations (I should say at the beginning, though the Commissioners seem to prefer the end of a half-year) confirming or correcting this subordinate method of constant competition; then, the stimulus would be always on—boys and parents would believe in the aim and end of the school, and the means taken for pursuing them. The two values of early education—the value as to knowledge, and the value as to discipline, would concurrently and surely proceed, and activity be infused even into the masses of a school.

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* At Shrewsbury, from the first, such a school seems to have been constituted under the title of "Accidence School." See Ashton's Ordinances.

This branch of the subject properly involves much detailed consideration—especially into the numbers and classification of a school—but I must not be tempted, but pass to what with many is the one absorbing point of interest, viz., the subject-matter of instruction, whether, in fact, Latin and Greek literature is to be the be-all and end-all of higher education; and if not, What, and in what proportion, other subjects are to be admitted?

And first of all let us clear some exaggerated regard on either side, which often seems to attach to combatants in this direct issue between progress and tradition. Of the two values just now mentioned, which belong to instruction—the value of it as a matter of knowledge, and the value of it as a matter of discipline—words are often used as if all of the last were with classical literature, and all of the former with the modern claimants. I think I have seen the classics referred to as "mental dumb-bells," or "intellectual gymnastics;" whilst modern literature and science are spoken of as simply so many shafts into mines of rich ore, certain to be the channels of great and increasing wealth; whereas, of course, the truth is, that besides being instruments of mental training, the Greek and Latin languages, as the most perfect organs of human intelligence, have an indispensable value in opening out to us the treasures of knowledge and beauty they contain, as well as in being the keys to much of the thought of modern times which they have formed; whilst the non-classical or modern subjects, have, of course, also much disciplinary result in the process of learning, besides the greater interest that attaches to living over dead phenomena.

I wish I could transcribe the words of the Commissioners at length on the position and value of the classical languages; on every point it would have been more gratifying to have quoted simply what there is found as being the best that could be said, but on none are its words so clear, comprehensive, and forcible as on this branch of the subject; but for the purpose I have before me, I must content myself with first stating what seems to be the public mind on the matter, so far as there is any; then what the conclusion of the Commission is, and on what it rests; and then, finally, what means or opportunities there may be, active or prospective, towards a likely solution of the problem. The public mind, like the question itself, is in a transition state: on the one hand, tradition is asserting the prerogative of possession and experience; on the other, progress is assaulting this supremacy, and unsettling the allegiance it has maintained, through many decided incursions on its domain. The classics have been the means of teaching and training great men and characters in practical aptitude, taste, and intelligence, whilst the growth of modern literature and languages, and the birth and progress of modern science are indisputable facts; the one pleads against unreasonable change, the other for some needful amendment. But though unsettled, the index of the public mind inclines decidedly towards the proved and prescriptive. It must be so; there is yet a general ignorance of and therefore indifference to modern subjects comparatively,

the means of instruction are deficient, and this helps the indifference from which, perhaps, it proceeds; still, spite of this, the elements of mathematics, modern languages, and leading laws of nature, would be admitted, perhaps, if the point were urged closely, to be at least desirable elements in a system of instruction, if they could be worked in subordinately or coincidently with the established elements. And this, as a presumed state of the public mind, is proved to be so, by the reflection it finds in the institutions which, as being modern, would be most likely, if not sure, to wait on its will.

Marlborough, Cheltenham, and Wellington colleges are in advance of the old public schools in the admission of the modern subjects, whilst in the old public schools the admission is found inversely to the maintenance of tradition, and the closeness of their attachment to the past; but still in none can it be said that the question has been satisfactorily worked out. The relative place of these modern subjects, and their harmony and influence in a regular school system, have yet to be settled, though all schools in their degree are admitting the claim, by furnishing some evidence towards the experiment.

As previous points to be settled, and very worthy of consideration here, did time allow me to do more than indicate them, are those necessarily involved in this contest between ancient and modern subjects, such as—

1. The comparative value, as elements of education, between the fixed and determinate, and the fluctuating and progressive.

2. The quantity of subject-matter possible, or at least advisable, to which generally to address the young mind.

3. The possible arrangement of them practically in a school system.

4. The faculties to which the various subject-matter appeals, and the period of life when it is wise and well to stimulate such faculty.

I cannot pursue these, intimately connected with a philosophic regard of the point though they be, but must pass on.

Now the position of the Commission is a good deal a-head of public opinion, and to the generality of school experiment, and, strangely enough, even of the modern or scientific testimony they have collected; for scientific men who have spoken on the point hardly seem to dare, as the Commissioners would, to make natural science compulsory, and assign to it 2-20ths of the teaching time. One is almost led to think that, quite unconsciously to themselves, they have outrun general expectation, through that anxiety to be fair towards parties in the suit, towards whom they might be held to have anything but a predilection; for though Mr. Faraday does say, "The first thing is to give scientific teaching an assured and honoured place in education," both he and Sir J. Herschel, and Professor Owen, are all against much or advanced teaching of mathematics or science, and need hardly be even objects of anxiety to Mr. Gladstone for any designs of "organic rashness."

The Commissioners decide for one educational basis, and that the classical, but admit modern elements into auxiliary position. They

take twenty hours as the period of teaching weekly, besides as many more spent outside the school in learning, and their estimate of the value they put on the various subjects, will be clearly gathered from the time out of this they allot to them :—

I.	Classics, with History or Divinity	11
II.	Arithmetic and Mathematics.....	2
III.	French or German.....	3
IV.	Natural Science	2
V.	Music or Drawing	2
		20

Thus would the Commissioners re-model the end for which school endowments exist, and school machinery operates.

The few stray exotic or indigenous flowers, which, with more permission than recognition, had strayed into the school garden, they take up and make part of the cultivated produce. The old root is still to be maintained as the radical producer and product; but these novelties are to be grafted in. Through classical literature mainly still the sap is to flow, but it may quicken these modern growths, which thereby may more adorn the flourishing though ancient stock on which they are to germinate.

The Commissioners see clearly that whatever is to be well taught must be systematically recognised, the subject essentially worked into the school system, and the teachers fully recognised on the school staff; though perhaps the difficulty of arranging and working in the various subjects in a school course is not sufficiently recognised by them. To stimulate each part, and harmonise the whole, as a whole, may be a point of detail, but is so important, that if it were impossible, any mere theory would fall before it; and, therefore, some consideration of its possibility or otherwise would have been as well.

Bifurcation, and modern within classical schools, are known to be unsatisfactory so far as they break in upon that unity of idea and singleness of direction, which are so essential for success. To give then the new subjects that vital force through direct and full recognition, and yet preserve the integrity of the school system, might have claimed a more practical regard.

The first, the full recognition of the subjects taught, is only to be gained by a separate classification for each subject. The second, the integrity of the school system, can only be maintained by a school classification as distinct from a subject-classification. Boys must be taught according to their attainment in each subject, and in a class suited to that attainment, but their place in the school must depend on the result of the whole; the minimum or low standard in French, say, thus detracting from the maximum of classics.

If the teaching generally went with the place in the school, each subject might, as to the teaching of it, be injured.

Therefore each subject must have its own recognised place, and separate classification.

The place in the school on the whole should influence all that trust and authority which place in the school ordinarily carries, and be the guide to the allotment of general prizes, like scholarships or exhibitions, while the separate subjects might have their own special prizes besides. These remarks may point out the importance of a practical regard of this question, as almost taking precedence of the mere educational theory.

At the same time, of course, the value of this turns much more on the educational theory it advances, than on the mere question of details. The question that presses is, How far is such theory right and true? and if so, What are the probabilities of its efficient attainment? Perhaps the answer to both would be best found in the bearing and demand of the most enlightened public opinion on the subject, and the type of the highest existing educational scheme. I myself should be inclined to rest it on the latter, both as the most likely and also the most fitting index of the conclusion required. The universities are, or at least ought to be, the regulators of the higher school education; and if they are not so, if the subtle reflex action existing between themselves and the bodies whence they mainly draw their supplies, has got to act disproportionately, the lower more influencing than influenced by the presumably more advanced, it were well to rectify the anomaly. The Commissioners do not spare the home influences; the evils of ignorance and indolence traced there, are to receive, if possible, a prompt and direct correction. Why should such correction stop there? If a school had better reject a candidate for admission to it because of home neglect, surely the university with much more reason should reject its candidates if imperfectly prepared by the schools. An university matriculation examination is a necessary complement of a school entrance examination. On the face of it it is much more feasible and just. We shall not get over this stile, except, according to our old nursery myth, all the influences operate upwards; sequentially, the water must not only quench the fire, but the fire burn the stick, the stick beat the dog, or ever the stile will be got over. In proportion as this juster theory of the relation between the universities and schools, has become in fact reversed, is the necessity for its repair.

Let me adduce a few records of the state of the case as regards that relation in fact.

In the Report of the Oxford University Commission, issued in 1852, we find the following passages (when speaking of that matriculation examination, to which I have just referred).

"The general character of the college lectures is lowered by being such as would suit schoolboys of fourteen or fifteen, or else a large portion of the students cannot profit by them, by being too backward. . . . . You never can find examiners who will publicly reject one-half or one-third of the candidates, which they would be forced to do, if they required such a proficiency as ought to be

required of anyone who had studied three years at a real university. Therefore they lower the standard to meet the case of those who have entered unprepared. . . . . They (the school) would then become what a school ought to be, and the university instead of being a school (and a very poor one), become a real university."

From this we gather, that in the minds of the eminent men who drew up that Report, the university ought to set the educational type to the schools, but *per contrà*, by that inevitable law in these matters, which makes always the standard gravitate towards its lowest possibility, the standard of the university is dragged down to the minimum of the schools.

Hear now a few words from this School Report. After quoting a striking evidence which declares how the schools are responsible for a good many of the men who fail through ignorance even to pass to a degree, or fall short through indolence of honourable distinction. They proceed to say :—

"It is impossible to misapprehend the effect which this state of things produces, and must produce on the studies of universities. It follows that school education with a great mass of men, and that education, one which barely enables them at last to construe a Latin and Greek book, chosen by themselves, to master three books of Euclid, and solve a problem in quadratic equations, is prolonged to the age of twenty or twenty-one. . . . . To give such instruction as this is not the proper business of a university. The whole course suffers both in depth and width. . . . . A few years ago, the university (of Oxford) had to make its course commence with more elementary teaching, and to insist on the rudiments of arithmetic, and a more precise acquaintance with the elements of grammar. Tutors felt that it was degrading both to themselves and to the university to descend to such preliminary instruction, but the necessity of the case compelled them."

Not to multiply testimony, we have here also direct reference to a due university type or standard, and its frustration through the influence of the school standard. And the remedy for this is a more independent action by the universities, which will then have an elevating influence on the schools, between whom and themselves there is such close intercommunion.

The university (I speak of the university of Oxford, but I believe the same thing appertains to Cambridge in some degree) is in an unsettled state as to its educational system, owing to changes recently introduced, but certainly not matured. The introduction of a strict matriculation or entrance examination, would seem more decidedly and justly called for, than that on admission to schools recommended by the School Commissioners. But this would affect the standard of attainment, and not the kind of subjects studied, and this as well the university ought indirectly to prescribe. Nor are evidences wanting in which way, at least, the thought of the university is travelling, however slowly; and it certainly supports the conclusions of the Commission. There would seem a growing opinion towards, at least,

that which I myself have long entertained very forcibly, that over and above the matriculation examination becoming a *bonâ fide* academic, and not a mere collegiate, test of one fixed ascertained standard, the other examinations, also, with the whole cycle of teaching, should be recast; that the Responsions, or "little go"—the first academic examination, as things now are—should be superseded by this matriculation examination; and that what is now called Moderations, or the second academic examination—an intermediate examination at about the second year of residence—should take the place, so far as being exclusively classical, of the old final examination, it being for that purpose raised somewhat in character and enlarged in subject, compared to what it now is; and that then, after that is passed, that there should be more roads than one or two, down which a man might proceed freely to his final examination, as a passport to his first degree. Classics should be one, of course, but not the exclusive pathway. Mathematics, theology, physical science, law, and modern history, should no less be recognised, and a man who had passed the Moderations, should thereby pass out of protected classicism, and might adopt and pursue any one or more of these other branches of study, with the direct countenance and encouragement of the university for so doing.

Now it will be plain at once that such a scheme conspires very much with the conclusions of the Commissioners, and assuming their rectitude, would be their efficient aid. But it is not merely on that account that I sketch it; I want the universities to vindicate their proper influence in the work of education. There are the schools to be raised, their action on themselves to be corrected, and public opinion to be informed. Tradition alone is insufficient; there is a new to be welcomed, as well as an old to be honoured. Popular opinion may be necessary to float into a general circulation and adoption ideas or conclusions, but it cannot rise higher than itself; it is, of course, more reflective than originative, representing the circumstances which may arise, but hardly itself elevating them. It may, as has been said, block the wheels of progress from running backward, but it does little to advance them on. At all events, in what concerns the intellectual, as the moral and spiritual, condition of a community, an institution which can, in the highest degree, prescribe and cherish a movement upwards, is of special value, if not of prime necessity.

Of course no institution can represent or propagate any truth which is too new or too high for existing circumstances; yet some place or body there should be, with higher aims and clearer visions than is represented by the circumstances of the time, which either by reference to tradition or progress, as may be required, may check or stimulate—be, in fact, the centripetal or centrifugal force, as may be necessary to the ordered and harmonious movement of the bodies they influence. And within our universities men there are for this work, on the progressive side, just as the whole genius and history of the institutions themselves indicate them as the homes of the traditional. Gifted and highly educated men there are, of great working power, as well

as independence of thought, secure in their circumstances, combining the highest facts of human experience, with the highest modes of human culture and opportunities of position; and gradually, no doubt, acting within their sphere, these will generate that temperature even beyond their sphere, under which all icy obstructions will gradually melt away; and to that influence I think the process must mainly be left.

But this is taken beyond the range of mere probability. Within our experience the universities have addressed themselves, voluntarily and of their own mere motion, to this very work of sketching a type and fixing a standard of education, and though not exactly for those under their own care and culture yet for those next door, and many of whom thereby are induced to become their actual alumni.

And what scheme of education, as to subjects taught, do we find in these so-called local university examinations; originated, mind, within the university? After a preliminary or necessary examination in English grammar, composition, and history, with arithmetic and geography, the candidates choose out of classics, mathematics, modern languages, physics, drawing, and music, in one or more of which every candidate must satisfy the examiners; the examination being conducted in all its details by the university itself.

And if thus it is to be to the academic, rather than to the scholastic bodies themselves, that we must look for the influences which shall modify and correct the existing state of things, not, therefore, has this Report been in vain, though the enforcement of its decrees may depend on a body it did not directly address. The Commissioners doubtless would be foremost to own the unity of the educational work, the identity of its principles and interests, under whatever qualifications of station or circumstances. Some of them strikingly illustrate it in their own persons. If we here have, as others have, often to view its uniform light, resolved into the three component rays, into which the prism of social circumstances discomposes it, one or two of the Commissioners themselves stand out signally, through their highest academic name, prompt middle-class sympathies, and deep practical intimacy and co-operation with lower education, to show us how the triple rays, however distinct they may seem, combine truly, after all, in one equable luminous effect.

The universities are deeply obliged for such a lucid representation and calm review of a case which so nearly affects themselves. It was a necessary supplement even to their own inquiry into their own state and condition; and mixed up as the two institutions, our public schools and universities, are, no reform could take place in the subordinate except the ultimate body should countenance and endorse it. As in fact, so in theory, the educational work cannot be precisely confined to any definite stage or period, or process within that period. It ranges from infancy to manhood in training the faculties and principles for the battle of life; and each is influenced by that which precedes it, whilst each step in advance is the goal towards which that which precedes is striving. The preliminary knowledge of the child

is preparatory to the scholastic knowledge and training of the boy, as that again to the farther development his faculties and acquirements should receive in the literary school of the universities, or the active school of the business of life. So the result of this inquiry necessarily must look before and after; and in reason and natural process of work before rather than after.

But with much still unsaid we must close. On the one hand we have to note what, as we find them, these public schools have done and are doing. On the other, what they may do besides.

Under the first aspect it never should be forgotten that like all great and stable things, they grew, and were not made; and that their growth is a production peculiar to the English soil and climate.

Nowhere else could they have grown—nothing reared elsewhere can even understand their growth—as the Commissioners say, it "is largely due to those very qualities in our national character which it has itself contributed to form." Not lightly, then, should we displace either "the maintenance of classical literature as the staple of English education," or "the system of government and discipline, which is admitted to have most important effects on national character and social life." Such as—as the Report declares—"the capacity to govern others and control themselves; aptitude for combining freedom with order; public spirit; vigour and manliness of character; strong but not slavish respect for public opinion; love of healthy sports and exercise:" all these, tradition has on the one hand to adduce with whatever coincident blurs and blots, and morally, politically, socially, if not intellectually, we cannot ignore the testimony. Under the other aspect, pleading against a too loyal tenacity of the modes and proceedings of the past, we have the ever growing claims of modern literature and modern science; for the progress of physical science and its wonderful discoveries, and its yet undiscovered but not uncertain future, forbid it from being any longer treated as Dogberry would have "vagrom men" treated, taken no note of, and let go. The problem is to adapt these claims to the condition of growth, and to the historical circumstances it has entailed; and for its solution is required the maximum of general intelligence with the minimum of direct interference. The raising that, is the aim, and the quickening the activity of the forces and powers, themselves educational, rather than the determinate intervention of an extraneous instrument; for so best, if so may be, may our great educational institutions continue to present no unworthy type still of our English Commonwealth, in uniting the "energy of youth with the majesty of immemorial antiquity."

Notes on Public Education. By the Rev. B. H. Kennedy, D.D.

The Report of Her Majesty's Commissioners appointed to inquire into the state of public schools has naturally attracted great interest

and attention. It is rich in valuable information on a most important subject. Its conclusions and suggestions, ably and often eloquently expounded, are the result of patient investigation and thought; conceived, for the most part, in a spirit of wise moderation; always contemplating desirable ends, if not always recommending practicable means.

A field of inquiry and speculation so wide and so full of difficulties must necessarily be open to great variety of opinion; and there is reason to rejoice that time is given for the public ventilation and discussion of the subject before any attempt is made to settle it by legislation.

The present paper has no purpose more ambitious than to contribute, as aids to this discussion, a few stray notes from the experience and reflection of one who, during his lifetime, as child, boy, and man, has been brought in contact with the work of public education. It will, in the first place, notice one or two matters in which the writer finds himself at issue with the opinions expressed in the Report. And, afterwards, it will add a few cursory notes on other educational topics.

The general recommendations are summed up in pages 52-55 of the Report. The first seven of these relate to the government of schools.

We must all see that the relative power of governing bodies and of head-masters is a question of great moment, and that erroneous principles admitted here would disturb and damage, in various degrees, the work of education. This delicate question will not here be discussed at large; but it deserves, and will doubtless receive, the grave consideration of those who are to legislate upon it. Two only of the recommendations affecting it in the Report I desire to notice with due respect, and to state why I find myself obliged to dissent from them. The first of these is the recommendation appearing under III. *h*, which ascribes to the governing body the power of determining "the relative importance to be assigned to each branch of study." Such ascription I cannot but regard as wrong in principle. Admitting that the "branches of study" to be taught in public schools should be prescribed by the governors (though I also think their powers in this respect would require limitation by some further authority), it seems to me that the relative importance to be assigned to each "branch of study" is a question essentially falling within the province of the chief educator, and that the head-master would not know "how to teach" well (p. 6) unless it lay with him to determine "the relative degrees of weight to be assigned to different branches." The difference between the principle propounded in the Report and that which I venture to advocate has an importance which can hardly be exaggerated. My principle claims for the man who is intrusted with the head place in a school that freedom of thought and action which I believe to be essential to the effectual discharge of his duties. The principle of the Report vests the architectonic functions of education in the governing body, making the head-

master only their chief counsellor and assistant in the execution of the work. Herein seems to be involved no less a question than this: Is it for the greater good of society that education should be raised more and more to the rank of a distinct profession, with powers, sanctions, and safeguards analogous to those of other professions; or that it should be reduced below its present rank to the level of a merely ministerial occupation, like the pedagogy of ancient Greece and Rome? I know not whether the Commissioners had such an issue present to their minds when they gave to the governors of schools the power of valuating the several studies. But I see no logical escape from the conclusion, that the withdrawal of this power from the head-master does really lower his professional character, and impair the dignity of education as a profession.

The second recommendation concerning government which I find myself unable to regard with satisfaction is Head VI., which suggests the legal constitution in every public school of a council of assistant-masters, having certain rights and powers. I cordially admit the propriety and value of the practice on which this recommendation is grounded; I mean the frequent consultations of the masters in common on matters affecting the welfare of the school. But I likewise believe, nay, I feel very sure, that its value as an instrument of good would be much impaired—that it would be always dangerous, often mischievous—if it were legally established as a kind of *imperium in imperio*, instead of being left altogether to the discretion of the head-master. I was myself an assistant-master for six years; I have been a head-master for eight-and-twenty; and I can truly say that I should as little have desired such a constitution in my former post, as I now desire it in the latter. The *Quarterly Review* (No. 231, p. 179) justly says that the success of this practice depends upon the consultation being voluntary.

The recommendations extending from VIII. to XII. comprise the course of study. Here all those thinkers who hold that language is the principal element of liberal education, and that Latin is, for several reasons, the best instrument of linguistic instruction, will gratefully welcome the deliberate judgment of the Commissioners, that "the classical languages and literature should continue to hold the principal place in the course of study." They will be thankful, not only for the judgment itself, but also for the admirable reasoning by which (pp. 28-30) that judgment is sustained. The friends of classical learning, all at least who are scholars in the true sense of the word, will deny none of the qualifications with which the Report surrounds this judgment, nor disparage any of the studies which it associates with classics in its proposed curriculum of public education. But as in the case of mechanical problems, which ignore friction and the resistance of the air, so in the application of this moral problem it may be feared that the best experiment which could possibly be made would fail to reach the standard exhibited in theory. In fact, when we look at the time-table of weekly subjects in page 34, and when we further find that for instruction in each of

these subjects it is proposed that the boys be differently distributed according to their proficiency, we find ourselves bewildered by the permutations and combinations of masters, boys, subjects, hours, and places which this plan involves, and almost driven to parody the cry of the desperate lover in the *Critic*:—

> "Ye gods, annihilate both time and space,
> And make our schoolrooms perfect."

After giving great consideration to this proposal, and talking it over with my own colleagues and other masters, I feel assured that it would not be feasible to redistribute the boys of a public school for distinct instruction, according to proficiency, in five subjects—classics, mathematics, natural science, French, and drawing; to say nothing of German and music, which are alternatively included. The very attempt could not be rationally made without such an increase in the staff of masters, as well as in other means and appliances, as few, if any, schools could hope to achieve; and, even with such aid, I think this plan would be unsuccessful as an educational discipline. The consideration of these subjects, or of the first four, as the Commissioners advise, in the marks of competitive examinations for place in school, is, on the other hand, feasible enough. Mathematics I have always considered along with classics, history, geography, and divinity; and I shall be glad to make the experiment of adding marks for French (which we have long taught), and for natural science, to those of the former list. Some persons may forebode a loss of sound scholarship in the highest forms from this multiplication of studies. They may be inclined to fear that the average sixth-form boy will be destined, like the hero of the old Greek poem, to "know many things, but know them badly all." I am not a prophet of ill to this extent; and, in submission to the high authority of the Commissioners, I think the experiment at least may very properly be made.

With these few remarks, written in no critical spirit, but with feelings of real deference and gratitude, I leave the general Report of the Commissioners. That which relates to the particular school with which I am connected will be more properly considered elsewhere.

I shall now throw together a few remarks on public education, as they occur to me while I write.

I. An accurate and elegant knowledge of four languages and their literatures, Greek, Latin, English, and French—or again, a sound acquaintance with geometry, algebra, and elementary physics—much more, the combination of both these, and that in early youth—cannot exist without implying the possession of considerable intellectual power. But, were we to take any number of boys constituting a public school, say 300, we should find the average intellectual power to be incapable of approaching so high a standard of knowledge during the term of school-life. Hence the really good scholars and good mathematicians must always be a minority; and boys who

are both these—good scholars and good mathematicians—will be much rarer still. The discovery and development of these higher capacities is the most delightful duty of the educator. But it will not interfere with the equally important duty of encouraging and elevating, as power is given, capacities of lower degree. It will make this work easier, by supplying standards and examples for the guidance of less highly-favoured intellects.

II. It happens sometimes, but rarely, that a boy comes to a public school, who, never having been taught, or never well taught, and being of low intellect, proves to be absolutely unteachable in class with other boys. Such specimens can only be returned to their homes, as unfit for a public discipline. In general it will be found, by careful inquiry and observation, that boys of a low intellectual grade have at least some one capacity better than their average—some taste or other. something which they can be got to do pretty well; say drawing, mapping, or some such accomplishment. In this they should be drawn out specially; for this praised and rewarded; for the sake of this encouraged to grapple with their harder and more irksome work. It is cheering to find a boy desirous to do anything well. A good cricketer, football player, rower, runner, leaper—any boy who strives to excel in what is profitable even to the body—has in him a hopeful seed, which may ripen to greater good hereafter. Therefore a master should carefully, but quietly, try to know every pupil *intus et in cute;* and to see, as far as such discernment can be carried, what is the best that can be made of him.

III. In my opinion, it is not possible, as a general rule, to teach the speaking of a modern language, *e. g.* French or German, effectively in a public school. An individual boy, with great imitative power, and a strong wish to learn, may now and then hang assiduously on a master's lessons, and make unusual progress in speaking accentually and idiomatically. But one or two rare instances will not disprove my general proposition. I believe, therefore, that a fair grammatical knowledge of French, and the power of reading it freely, is all that can be looked for as the best result of our French lessons; and this will be more than the average result. French should be well learnt in the years of childhood. To take my own case, I learnt French from the age of seven to fourteen; never afterwards: and I have always been able to read that language as easily as I read English. But speaking is quite another thing. I can make myself understood for every ordinary purpose; but if I try to converse, I find myself embarrassed by a conscious want of that pure idiom and accent, which can only be gained by long-continued and good practice; and I also find myself unable to follow the rapid utterance of the foreigner; a further result of want of practice. The same thing happens with regard to German and Italian, which I learnt at a later time.

IV. There is nothing which public education so much demands, nothing from which it has so much to hope, as the improvement of the child's training before he comes to a public school. This is now,

for various reasons, much mismanaged. The conduct and manners and health of children seem to me taken better care of than they formerly were; but their intellectual instruction has not kept pace with the improvement in other respects. I am not unaware that practical educators differ in opinion upon this very question of early training. Some men of great ability and authority maintain that the classical languages should not be taught before a boy's twelfth year. I wish this question could be made the subject of large and fair and satisfactory experiment. But boys are not Carians—*corpora vilia*—on whom such experiments can be justly made. All I can say is, that experience and reflection lead me to take a different view. I would not, indeed, crush the child's tenderly budding intellect beneath the weight of numerous and long grammar-lessons; but I would have him begin his Latin and French together (after he has learnt to read English, and repeated some by heart, and written some from dictation) at the age of seven or eight; and he should carry them on quietly and steadily for two or three years, and then advance to Greek, when his age will bear more teaching. His other studies, as history, geography, arithmetic, natural science, with drawing and music, will intervene as variations, often as recreations of his lessons in language. His written exercises will, of course, be raised gradually, according to his progress; and they will be such as may most effectually prepare him for the discipline of a public school. This is one of the points which I find now most generally neglected. Many boys come to school at an advanced age without having tried a Latin verse, or even the translation of a prose sentence longer than those in "Arnold's First Book." This is a serious disadvantage to them. We all know what is said and written in disparagement of versification. Nor am I myself among those who would force boys to be Latin poets in spite of Minerva. But every boy should learn the metres of the poets whom he reads; and, without absorbing too much of his time and labour a fair chance should be given him of gaining that easy and elegant mastery of the language, which is best achieved by imitating the style and tone of the ancient authors in verse and prose. When experience clearly shows that the time spent in what is called classical composition affords no prospect of yielding a good return for the outlay, by all means let the practice be exchanged for some more profitable exercises in English composition, or mapping, or mathematical problems. Adopt this rational plan, and Latin versification should cease to be a bugbear to educational reformers. As to Greek verses, they are only taken up by the higher boys, and the time given to them is not thrown away in the march of scholarship. Mr. Grant Duff is certainly wrong in saying that our best modern Greek and Latin verses would have been laughed at by the poorest poets of Athens and Rome. If this be true, it must also be true that we are incapable of comprehending the ancient languages and literature altogether. The *Edinburgh Review* (No. 245, p. 178), though opposed to the general practice of versification in schools, allows very candidly, "that many of these

compositions, the work of men of taste and genius, who had acquired an extraordinary familiarity with the idiom of a dead language, are really beautiful, and if they are beautiful to us (he adds), it signified very little whether they would have seemed perfectly correct to a Greek or Roman reader."

V. It is often assumed, especially by reviewers and journalists who write in a spirit of hostility to public schools, that the subjects read and the lessons required in school are all the learning which a studious boy will acquire during his school life. But this is a grave error. Though we do go over considerable ground in actual lessons, yet our pupils are constantly told that their instruction in school must be valued rather on the ground of quality than of quantity; that they have to read a great deal more for themselves, individually and privately, in every language and literature they study if they wish to be sound scholars and well-read men. And as example is better than precept, my pupils may sometimes have heard how the classical discipline of Shrewsbury, though not akin to his own favourite studies, had not at least hindered Charles Darwin from steadfastly pursuing the career of natural science, until he found his place in the foremost rank, not of English only, but of European philosophers; or how Mr. Price, of Chester (author of "Old Price's Remains"), besides being an accurate and well-read scholar, is at the same time a profound observer, chronicler, and interpreter of nature in her many aspects; a skill he was ever acquiring at school by using his eyes and ears well in his country walks, by watching the growth of plants and the architecture of birds and insects, by collecting organic and inorganic specimens, nay, even by dissecting, as I well remember, rats, mice, and birds, in no wanton spirit, but from the pure love of scientific investigation. In short, it is a master's province and pleasure to prompt, encourage, and reward, as far as opportunities permit, mental improvement of every kind, not merely to exact lessons and explain them in school. And when natural science shall be added to our present course, our best hope will be to impart an initial taste, or add a stimulative power, which may hereafter carry forward young naturalists into the highest walks of science.

VI. Again, it is sometimes asserted, and often implied, by critics of the same tone, that masters of public schools regard no studies with favour but those they profess to teach. This is as much an error as the last assumption. The masters, like other people, have their own favourite studies and pursuits. But they are not at liberty to gratify these in their school duties. As honest and responsible men, they have little or no choice in the matter of school work. They are appointed to teach certain things, and they have contracted to teach them. The laws of their schools prescribe the general work, and boys are sent on the faith of its being done. The public schools are all, by their constitution, grammar schools; that is, schools designed to prepare for the discipline of the universities by fundamental instruction in language. Masters have no right to withdraw

boys reading for college from that course which is to prepare them for college; and parents would have just ground to complain if they did so. Therefore we cannot consult our own tastes in the arrangement of studies: we must, in common honesty, regulate them mainly for the good of those who are designed for university competition. If those studies are not the best for intellectual culture, it is in the universities rather than in the schools that the remedy must be sought. In fact, the (so called) pass examinations at Oxford and Cambridge determine the staple reading in schools, since one or more of those examinations must be passed by every student proceeding to a degree in arts. And in the highest forms many boys are looking forward to the honour examinations: by these, therefore, the reading of those forms is chiefly determined. It is true, happily, that a degree may now be gained, at least in Cambridge, by a place in any one of four distinct honour classes—mathematics, classics, moral sciences, or natural sciences. But this will not avail to change the school course, as long as the pass examinations are conducted only in classics, mathematics, and divinity. How far any relaxation may possibly be made in these subjects, which are now deemed the most proper tests for all candidates in both universities, I cannot pretend to say. It is enough for me to establish the fact, that upon this question entirely depends the regulation of the general studies in public schools. A similar observation applies to the work of the higher forms as dependent on the honour examinations. If Mr. Grant Duff and others are right in saying that too much time is given to versification or to classical composition generally, they must look for the remedy in persuading the universities to withdraw these subjects from their examinations for scholarships and honour classes. The practice would then be dropped in schools as a necessary consequence. I am not now concerned to inquire whether learning and intellectual excellence would gain or lose by such changes. I merely prove the injustice of imputing to public schools and their masters the maintenance of studies with respect to which they have virtually no option.

VII. It has indeed been shown, unhappily, by the evidence before the Commissioners, that the usual and required studies of public schools are not successfully pursued by a large number of boys. The blame attaching to this fact, so far as there is blame, must be distributed between many causes and many classes. Parents and preparatory tutors must share with public discipline the fault of not teaching well those who can be well taught. But there will always remain a considerable number of boys, whom it is impossible to teach effectually, at all events with the desired success, in class, and who would require more special time and pains than can be given to them in public discipline. In these cases it can hardly be said that blame attaches anywhere: since parents know their children's deficiencies, and yet desire that they should receive that amount of benefit in public education which belongs to social intercourse and common discipline, even without the further advantage of large mental

culture. The masters, however, are not disposed to rest content with the lowest view of this great subject. In the consultations they have held for the purpose of common action and general improvement, the greatest attainable degree of public good has been, and will, I am very sure, continue to be, their single end and aim.

VIII. Most transactions of human life are in the nature of compromise; great good is seldom gained without some drawback, some sacrifice of good in another direction. Hence these questions will constantly arise: first, Is the good worth the sacrifice? next, If so, how may the sacrifice be made as small as possible? The good side of public education in England I am spared the pains of demonstrating; the Commissioners have described it in the eloquent passage which concludes their general Report.

"Among the services which they (public schools) have rendered is undoubtedly to be reckoned the maintenance of classical literature as the staple of English education; a service which far outweighs the error of having clung to these studies too exclusively. A second, and a greater still, is the creation of a system of government and discipline for boys, the excellence of which has been universally recognised, and which is admitted to have been most important in its effects on national character and social life. It is not easy to estimate the degree in which the English people are indebted to these schools for the qualities on which they pique themselves most—for their capacity to govern others and control themselves; their aptitude for combining freedom with order; their public spirit; their vigour and manliness of character; their strong but not slavish respect for public opinion; their love of healthy sports and exercise. These schools have been the chief nurseries of our statesmen; in them, and in schools modelled after them, men of all the various classes that make up English society, destined for every profession and career, have been brought up on a footing of social equality, and have contracted the most enduring friendships, and some of the ruling habits of their lives; and they have had perhaps the largest share in moulding the character of an English gentlemen. The system, like other systems, has had its blots and imperfections; there have been times when it was at once too lax and too severe—severe in its punishment, but lax in superintendence and prevention; it has permitted, if not encouraged, some roughness, tyranny, and licence: but these defects have not seriously marred its wholesome operation, and it appears to have gradually purged itself from them in a remarkable degree. Its growth, no doubt, is largely due to those very qualities in our national character which it has itself contributed to form; but justice bids us add that it is due likewise to the wise munificence which founded the institutions under whose shelter it has been enabled to take root, and to the good sense, temper, and ability of the men by whom, during successive generations, they have been governed."

The advantages thus described are due in great measure to the free spirit of public education; but to the same free spirit are also due, in great measure, the circumstances which detract from its effi-

ciency and success as a discipline of the intellect—the idleness so much complained of, the waste of time, the postponement of work to play, the predominance of sports,—all, in short, which Archdeacon Denison calls the pædocracy, or boy-rule—which he might with equal justice have termed the pædiocracy, or play-rule—of our times. Well, then, is the good element of our education worth a drawback so serious; or are we to exchange our free method for the drill system of what Mr. Matthew Arnold calls "a French Eton"? The Commissioners do not recommend this latter alternative: their plan is to lessen the sacrifice; and without being too sanguine, I heartily bid them "God speed!" We are in a time of educational transition; we should put aside hard words and hard thoughts, and do what we severally can to improve the practice of public education. There are none, perhaps, who can do so much for this purpose as the parents of the rising generation belonging to the great and wealthy classes of society. This truth the Commissioners clearly indicate in their Report (p. 40). Let such parents send their sons to public schools well prepared in every respect; let private expenditure be wisely regulated; let them require their sons (and let sisters require brothers, on the strength of the old saying, "*noblesse oblige*") to compete honestly for literary distinction at school and college; and, whether they stand first, or midmost, or last, in the race, to find their best reward in the sense of having done what is right, and set a good example. This good example, on the part of parent and son, has indeed been often set by the heads of our noblest English families; as witness the present Chancellors and High Stewards of both our universities. And, if any other stimulus than that of duty were needed to prompt our aristocracy to this truly worthy course, they might find it in the fact, that the career of so many illustrious public men has opened with honourable distinctions at school and college. Need I mention among these, three names still fresh in glory, though inscribed, alas, on tombs—Dalhousie, Canning, Elgin? And the county in which this paper is read will proudly associate with these the names of Lord Carlisle and Sir Charles Wood. Fashion in England is all but omnipotent. Let those who steer its shifting course try to make it fashionable for the young to know something that is really worth knowing, and to do something that is really worth doing for the good of mankind; and they will then have rendered an inexpressible service to their country.

Addiscombe. Its Origin, Constitution, and Objects, as Illustrative of a Department of Education, and Suggestive of some Improvements in our Public Schools and Universities. By the Rev. Thomas Bisset, M.A.

In addressing you on the subject of Addiscombe, lately the East India College for engineer and artillery cadets; it will be my object, avoiding the enumeration of details, to eliminate and bring

prominently into view, a few great leading educational principles, which were made to enter, almost from the first, into the constitution of the college; principles which, as having mainly contributed to the great prosperity and high reputation of Addiscombe, I am anxious to see introduced, as far as may be, into other educational institutions, whether public schools, colleges, or universities.

Up to the year 1809, the East India Company's engineer and artillery cadets were educated at the Royal Military Academy at Woolwich. Two inconveniences arose from this: First, sufficient attention could not be given, consistently with the general arrangements of the "academy," to the study of the languages of India; and secondly, the professional jealousies subsisting between the royal and the Company's officers, penetrated within the walls of the Royal Military Academy, to the discomfort of the Company's cadets.

To remedy these inconveniences, the Court of Directors purchased the estate of Addiscombe, consisting of a noble old mansion, surrounded by a park of seventy acres, ten miles south of London, and a mile east of the town of Croydon in Surrey, and there, in 1809, the nucleus of the college was formed, under the head mastership of a civilian, Dr. James Andrew.

On Dr. Andrew's retirement in 1823, the Court of Directors, acting on the advice of the late distinguished officer, General Sir Howard Douglas, at that time the public examiner, introduced great changes into the constitution of the college.

1st: Instead of a civilian, a military officer, as lieutenant-governor, was placed at the head of the college, with an adequate military staff; and 2nd: The number of the cadets was increased from 90 to 150, with corresponding additions of barracks, class-rooms, and professors, the selection of the professors being delegated by the court to the public examiner.

Now, it is to this increase in the number of the cadets from 90 to 150, involving, as it did, great principles, manifesting deep philosophical views and knowledge of human nature, marking a new era in Addiscombe existence, giving it a distinctive character and a new life, that I would invite special attention. The world in general would suppose, and very naturally, that this great and sudden increase took place in consequence of a great and sudden demand from India for additions to the engineer and artillery corps. In justice to the Court of Directors, to Addiscombe itself, and especially to Sir Howard Douglas, I am anxious to explain that this was not the cause of the increase. India was then free from war, and from the prospect of war; and Addiscombe by this increase was not expected to supply, nor did it actually at any time supply, out of the 150 cadets in college, more than 100 as engineer and artillery officers. When, subsequently, in consequence of wars, there came from India an increased demand for engineer and artillery officers, Addiscombe did not and could not supply it—the remaining 50 not being sufficiently qualified. The supply was made by direct appointments of young men, qualifying outside the walls of the

college. The increase from 90 to 150 was made on grounds of high moral expediency, of adapting the means to the end.

To Sir Howard Douglas belongs the credit of reasoning the Court of Directors into the adoption of this bold original and comprehensive measure, so greatly in advance of the time when it was made. Sir Howard found, from his experience as public examiner, that of those entering Addiscombe, on the principle of patronage and nomination, not more than two-thirds of the number, even with the check which existed of an entrance examination, possessed the natural ability requisite for an officer of artillery; and he was placed as public examiner in the painful position, either of accommodating his examination of the remaining third part to their mediocrity of talent and acquirement (as was previously done), or of rejecting them as unqualified, and depriving them of their commissions. Himself the most scientific officer of the British army the Court of Directors listened to him with all respect when he urged on them the necessity of maintaining a high standard of qualification for the engineer and artillery corps; and, convinced by his reasonings, the Court—generously sacrificing for the benefit of the Indian service, much of their previous freedom in the exercise of their patronage, resolved to at once increase the number of the cadets to 150, in order to obtain from these 150 an annual supply of 50, that is a biennial supply of 100 officers duly qualified for the engineers and artillery—throwing open, that is, the 100 engineer and artillery appointments to the competition of the 150 cadets now in college—with the proviso of infantry appointments for the remaining 50, in the event of their passing on a lower test. The measure, which, when properly understood, took the cadets with the surprise of an electric shock, was productive of the happiest results. Before, there was in the college a deficiency not only of talent for the scientific corps, but of emulation also—for every one, properly conducted, felt sure, if not of the engineers, of the artillery. But the change introduced was as the healthy morning breeze rippling the smooth water, filling the flapping sail, and sending the becalmed vessel steadily on her way to the haven of her destination. From this period, Addiscombe, instinct with intellectual activity, took a forward bound; leaving Woolwich, working on the old system, altogether behind. Idleness, the root of so much evil, disappeared all but in name; the necessity of working hard for the great prizes was felt and acted on; great diligence and great progress were regularly reported, and along with them a much improved *morale*, diligence and good conduct going hand in hand. The half yearly public examinations, from their attractiveness and renown, were attended by the most distinguished in rank and science, and recorded in the public papers as "events" of the day; and Addiscombe was pointed to as *the* place, where, bearing in mind the youth of the student cadets—admissible from 14 to 18 years of age—and their limited residence of two years, a greater amount of good work was done than at any other educational institution in the kingdom.

Among the cadets an ardent spirit of emulation for the great prizes attainable at the end of their college career, enabled Addiscombe to fulfil the great object of her existence—the sending forth of a body of officers highly qualified for the engineer and artillery services of India. If I were to dwell on the points in which Addiscombe resembled other educational institutions, I should, by diverting attention, defeat my object; that of exhibiting, in the language of the physician, the diagnosis of the Addiscombe system—the distinctive cause of her marked success and celebrity in the educational arena.

On the suppression of the Indian mutiny, the Queen's Government, on taking possession of India, incorporated Addiscombe with Woolwich, where competitive entrance examinations have recently been adopted with decided success. Addiscombe no longer is: but in the history of modern India she will occupy a distinguished place.

The sketch now given of the Addiscombe system will not be unprofitable, if it enable me to suggest some improvements in our public schools and universities, to which I would now invite a brief attention, with occasional reference to the recently published Report of the Royal Commissioners, on the state of education in Eton and eight other public schools. Among improvements for those schools, the Report, voluminous and very able, recommends an entrance examination. Passing at once to our universities, I would suggest to them also, a university, as distinguished from a college, entrance examination. The colleges examine privately at entrance, but from their rival interests, the examination is, in most of them, merely an empty name. Having in 1850, when the university commissions were appointed, published a letter of "Suggestions on University Reform," I would here beg to extract from it a few passages relating to this subject.

The very imperfectly educated state in which a large portion of the young men enter the university is deeply felt in every lecture-room of Oxford and Cambridge, and bitter is the mortification which the college tutor has to undergo from the freshman's ignorance and inaptitude to learn. Prepared as the tutor well is, to accompany him through the higher walks of literature, to dwell among the groves of the academy, or to climb the lofty heights of science, he finds himself compelled (*proh pudor!*) to take the primer in hand and appeal to the rudiments of grammar and the simplest elements of arithmetic. . . . . I propose that each university should have a strict examination for admission, such as now takes place for the "little go," and the "ordinary degree," that the gate of the university should be passed before that of the college could be entered; and that the veto of the university should be a veto for the college. . . . . The universities are at the head of the educational interests of the country, and they should show that they are so by exerting this controlling influence. Public opinion would entirely support them, while the various schools throughout the kingdom, which are to the university as the fountains and streams to the great river into which they disembogue, would and must arouse themselves and rise to the appointed level. Our great public schools must, when the university declares that it shall be, bend the head and pass under the yoke. . . . . The best interests of the universities require them to erect at their entrance this great educational breakwater, as the best and only means of arresting at their gates the ignorance and incapacity, which now tide into their bosom, unchecked and unseen, through so many various channels. The examination, at first made easy,

might after a few years, by a gradual and gentle rise, be made equal to, and even go beyond, that now required for the ordinary degree.

The recommendation, by the Royal Commissioners, of an entrance examination for the public schools, affords me a favourable opportunity of renewing my former suggestions of a university, as distinguished from a college, entrance examination.

As preliminary to further suggestions—in my view, of great importance—I would here enunciate a proposition, apparently simple and self-evident, yet in its practical application, suggestive of great reforms in our Scotch universities and public schools, and also of some important improvements in our English universities.

The proposition has two parts: the first, "Every educational institution aiming at excellence and distinction should have its rewards of merit to bestow—its 'doctarum præmia frontium,' its 'palmæ nobiles' to mark the 'nobile facinus' of scholarship;" and the second, "These rewards of literary desert should be given, not for proficiency in scholarship acquired without, but for proficiency in scholarship acquired within the institution; and hence should, in justice to the best interests of the institution, be awarded, not at the commencement of the educational curriculum, but at its termination."

Let us glance, first of all, at the Scotch universities where we shall find this principle violated in its very essence, and with most injurious effect. Poor in rewards, far too poor, as are the Scotch universities, these rewards are all but thrown away.

Bursaries, anglicé scholarships, in the proportion of about 30 bursaries to 100 students, are competed for at matriculation (on entering the university), and given to the thirty then most proficient in scholarship—which scholarship, it must be borne in mind, the university has had no hand whatever in creating—and when these bursaries are given away, the university treasury chest has all but emptied itself of reward for the future. It has not been an examination for admission, as it should be, for all are admitted; it has been a university battle between man and man, fought at the university gate, under the eye and cognisance of the university, and with the university award, but without the armour of university preparation. And what is the consequence? Thirty have gained bursaries and are unduly raised up; seventy have tried and failed to receive and are unduly depressed. Yes, at the very moment when every student should enter on his university course, full of ardour and joy, and bright anticipations for the future, that moment is seized by the university—for it is the doing of the university—for setting its mark of approbation on the thirty bursars, and inflicting a blow of great discouragement on the seventy non-bursars; and in the breasts of this great majority spring up feelings of mortification and despondency, mingled with a rankling sense of the injustice of the system, which they are unable to shake off during their four years of university life. My suggestion, as a remedy, is that these bursaries should be competed for, not at the beginning but at the end of

the university curriculum—as rewards for proficiency at the university—and be held for the usual period of four years.*

I turn with a feeling of relief to our English universities, where the principle I advocate is in full operation, and productive of the finest fruits; I allude to the fellowships, which are competed for at the termination of the university course. And what is the result? As I wrote of the fellows in 1850, so would I say now, "They form in their collective capacity an aristocracy of talent and knowledge, to which there is nothing in the world *aut simile aut secundum*." But suppose the fellowships competed for on first entering the university, should we have such scholarship at the end of the university course as we now have? Every student of human nature at once replies, "No." Would the Olympic dust, in the stadium of old, have been collected in such volume on the chariot, if one had received the prize before the race was run? Could St. Paul then have written, "They that run in a race run all, but one receiveth the prize. So run that ye may obtain." His language, on the Scotch system, would have been, "Run, for one hath obtained the prize."

Two suggestions—corollaries to my enunciated propositions—I would now submit to the English universities. The first is, that sizarships and servitorships, converted into scholarships, should, with other scholarships, be competed for, not at or near the beginning, but at the end of the university course. The second is, that colleges should have their "honorary fellows," as cathedrals have their "honorary canons." It constantly happens that a university man comes out high in honours, who yet gains no fellowship at his college, simply because none is vacant. For such let there be the "honorary fellowship." Granted that the reward would be honorary—still this ivy chaplet, woven by his college around the learned aspirant's fevered brow, would refresh and console the *mens divinior* within; and remind also a too forgetful world, in regard to the stipendiary fellowship he had hoped for, that

> "'Tis not in mortals to command success,
> But he deserved it."

I come lastly to our public schools, taking Eton as their type. It is thus the Commissioners report at p. 55, remark 4. "We have been unable to resist the conclusion, that these schools, in very different degrees, are too indulgent to idleness, or struggle ineffectually with it; and that they consequently send out a large proportion of men of idle habits and empty uncultivated minds." Language this of strongest condemnation!

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* I am indebted to a learned friend (Adam Thom, LL.D.), for proposing a modification of the above suggestion, which is well worthy of attention; namely, that considering the generally limited means of the Scotch students, and the variety of subjects of study which each session produces, the bursaries should be competed for annually, at the end of each session, and held for a year. Bursars should be bound to go through the university curriculum.

At Eton, in 1862, there were 840 youths in *statu pupillari;* 70 on the foundation; 770 not on the foundation; the latter to the former in the exact ratio of 11 to 1. The period of residence is nearly five years; and we may infer, according to the above ratio, that the 170 leaving in 1862 consisted of 156 not on the foundation, and 14 on the foundation, and that 14 foundations then became vacant. The foundations—analogous in many respects to sizarships and servitorships—formerly given away, now competed for on entering Eton, are in pecuniary value about £50 a year; and among their privileges is one, on leaving Eton, of exclusive competition for scholarships at King's College Cambridge. Now, reasoning *à priori* would lead to the conclusion that between the 70 foundationers and the 770 non-foundationers, there would be not only no friendships, intimacies, or associations, but, on the contrary, feelings of a kind that, on high moral considerations, should have no place whatever in an educational institution; and these *à priori* reasonings are fully corroborated by the testimony educed and reported by the Commission. Strange, indeed, it would have been if, constituted as human nature is, the testimony had been different. A system creative of ill-will among those between whom brotherly love should abound, must be unsound in principle, as it is vicious in operation. I must here, though at the risk of encroaching on the allowed time, pause to explain—as pertinent to the proposition I am to conclude with—that in the case of Addiscombe, the Court of Directors were besieged with memorials from India, praying to admit the sons of Indian officers at the reduced charge of £40 or £50 a year, instead of the actual charge of £130 the first year and £100 the second; in other words to create a species of military foundation at Addiscombe. The Court, on the express ground of the heartburnings and jealousies certain to follow, firmly declined to comply. If the Court had first allowed and afterwards abolished this system of preferences, what bursts of virtuous generous indignation at the iniquity and cruelty of the act should we not have heard from India; what wailings of distress, what Cassandra predictions of the approaching downfall of the Indian empire, and the setting for ever of India's sun! The mutiny itself would have been traced to this source.

My final proposition, based on the principle of "the greatest good of the greatest number," is, "abolish the 70 foundations *in toto*, and convert them into 70 scholarships of £50 a year, held for five years, and open to all Eton at the end of the curriculum—14 to be competed for annually by the 170 leaving, or 7 half yearly by 85, for there should be half-yearly public examinations. By the abolition of the foundations we should destroy the alienations and jealousies which they naturally engender, purify the atmosphere of bad passions, cherish, sweeten, and strengthen the affections. By their conversion into scholarships we should introduce a most wholesome emulation, at present almost absent.

Yes, let Eton hang up her choice rewards on the tree of know-

ledge growing within her time-honoured precincts, and see whether her youth will not, with glowing emulation, unalloyed with envy, struggle, one and all, in their order and season as they grow up, to reach them, and to carry them off—the trophies of their signalised success—to lay at the feet of joyful parents.

The changes which I propose may be classed under three heads:—

1. Entrance examinations for universities and for public schools; for the latter proposed by the Royal Commission also.

2. Honorary fellowships in colleges.

3. Bursaries in Scotch universities; sizarships, servitorships, and scholarships in English universities; and foundations in public schools, to be competed for as open scholarships at the end of the educational course.

In conclusion, I would, with all earnestness, express my conviction —grounded on much experience of youth—that the change which I advocate in our public schools, from close foundations to open scholarships, would be the era of a new life in those grand old national richly endowed institutions, of which we are so justly proud.

MIDDLE CLASS EDUCATION.*

Grammar Schools. By the Rev. Canon Hey.

In the brief paper which I have the honour to present to the Department of Education, a paper which I must pray you to consider as suggestive not exhaustive, I propose to discuss the following questions. Is it desirable that a royal commission should be issued to inquire into the management of the endowed grammar schools of England, and the system of education pursued in them? What good and useful results may be expected from the appointment of such a commission? And how should its operations be conducted so as most effectually to arrive at these results? There is, of course, a much wider field than this, including many important unendowed and private schools in England, as well as the very distinguished educational establishments of Scotland; but I confine myself to that class of schools with which I am most familiar, and which are so numerous and important that they may well claim a distinct consideration.

In speaking of these schools I shall at once avow my conviction that there is no class of schools in which, upon the whole, there is a larger amount of honest work done, or in which the results are more

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* For the Discussion see Summary of the Department.

successful. Of this we have sufficient evidence in the number of university honours, and the comparatively small number of failures of pupils who enter the universities from these schools. I state this as a fact, the proof of which is not difficult, though I have not time to enter upon it further than to adduce one or two witnesses. Mr. Hammond, a tutor of Trinity College, Cambridge, states in his evidence to the Royal Commission that proportionately to their numbers the schools which are confined to persons of small or moderate means send up the best students; and Mr. Bartholomew Price, Sadlerian Professor of Natural Philosophy at Oxford, remarks that he meets with many pupils from the same class of schools who have "gone through a sound course of geometry, and have often well studied the principles of the modern analytical methods."

The fact is that the grammar schools, and other schools of the same class, have to produce, at half or less than half the cost of education, pupils who can hold their ground, without discredit, in classical knowledge against the pupils of the great public schools; and who, in addition to this, can display no small proficiency in a field which is hardly trodden by the pupils of those schools—that of science.

It would, however, be foolish to assert that this efficiency of which I speak is anything like universal. Some schools maintain an existence which is almost nominal, while others suffer under depressing causes which seriously interfere with their efficiency; and those of a very opposite character.

Here and there we meet with schools possessing large endowments in which the income of the head-master is ample, and almost independent of the scholars. Where this is the case it sometimes happens that a master, especially in the remoter and more isolated places, becomes indolent, and allows his school to fall into decay.

Some schools are under the control of governors who are either incompetent to the duty of selecting a master, or act unfaithfully to their trust by making appointments from motives of private interest, without much regard to qualifications for the office. Decay and decrepitude is the almost certain fate of such schools.

Again, it may happen that from local causes, such as an unattractive locality, or a thin and poor population, scholars are scarcely obtainable, whatever be the qualifications of the master; or, if obtainable at all, belong to a class for whom the course of instruction prescribed by the rules of the school is unsuitable and therefore worthless.

Another hindrance to extensive usefulness is found in the well-meant provision, existing in many schools, which gives to the inhabitants of the town or neighbourhood a claim to gratuitous education. I conceive that there is no provision connected with the old foundations which is more injurious, or more unsuited to the requirements and social condition of the present age, than this. It is a principle which is well-established in elementary schools, that the parents should always contribute to the education of their children, and surely the same principle is equally applicable to schools of a higher

class. Endowments are most valuable as aids to persons of slender means, but they should never supersede personal liability. I am convinced that many schools which, as free schools, are at present almost valueless, might, if a moderate payment were required from the scholars as supplementary to the endowment, be raised at once into usefulness and efficiency. It may be, and no doubt is, important to employ endowments partly in reduction of the annual expense of each scholar, or, in other words, to provide, for a moderate sum to each person, an education of a higher class than could have been provided at the same cost without the supplement of an endowment; but I conceive that after all the greatest value of endowments consists in the encouragement and help which they afford to the most promising scholars, by means of free scholarships and exhibitions to the universities, to pursue their education to its completion. and to fit themselves for higher positions in life than they could otherwise have attained. A very large number of persons now holding eminent positions in society owe their success in life entirely to provisions of this kind.

Upon the whole, then, I think it clear that the investigations of a royal commission might be most useful in pointing out how, in some grammar-schools, the endowments might be made more widely available for the purposes of education; and how, in others, the fundamental rules and regulations might be modified by competent authority so as to subserve the same end. I believe that to all active and intelligent schoolmasters the information which would be accumulated by the investigations of such a commission would be most valuable. The bad schools require investigation—the good schools would court it, and profit by it.

But, after all, comes the question which stands foremost in the discussions of this day: Would the operation of a royal commission render these schools more available than they have been for the education of the middle classes? This is a question which I have considered with some anxiety, and to which I feel it difficult to return a very decided answer. My difficulty arises partly from the extreme indefiniteness of the term "middle class." The classes of English society merge into one another by so many. and such almost indefinable, gradations, that I am quite at a loss to know where the middle class begins and ends. I assume, however, that the term takes as its upper limit the mass of those who belong to what are commonly called "the learned professions," and, assuming this, and believing that in a very large number of cases these schools afford to persons engaged in such professions the only opportunity which they can have of giving a liberal education to their children, I should most earnestly deprecate anything like a sweeping change in the design and object of grammar-schools, such as would make them places of apprenticeship for trade rather than instruments of liberal education. A large majority of these schools owe their origin to the period of the revival of letters, which was coincident with the English Reformation; and the design of their founders was that there "never might

be wanting a supply of persons duly qualified to serve God in church and state." They were to be the nurseries of the universities. The very term "grammar-school" implies that the basis of the instruction given in those institutions was to be the knowledge of those languages which the common consent of Europe has adopted as affording permanent standards of taste, and means of mental development. After the experience of many years as a schoolmaster; after watching carefully to observe what sort of education produces men who subsequently exhibit the greatest scope of intellect—who, in a word, are the best men in after life; I fully concur in the judgment of our ancestors in their selection of these as the best means for drawing out the powers of the mind. But at the same time I do not see that the study of these languages demands an attention so exclusive as to banish many useful and subsidiary branches of education. On the contrary, I believe that they are studied most effectually when combined with other subjects. On this point I concur with the opinion expressed by Dr. Mortimer, the able and learned master of the City of London School. "It is my opinion," says he, "founded on considerable experience, that the limited time given to classics here, in comparison with other public schools, is fully made up by the increased mental power obtained by an acquaintance with many other subjects." And my concurrence in this opinion would be still more unreserved but for one circumstance, viz., the great importance still attached by the universities to Latin and Greek verse composition, and the consequent necessity of devoting much time to the acquirement of that dexterous manipulation of poetical phraseology which makes a man what is called a good verse-maker—an attainment not without its value in many respects, but after all, possessing a value very disproportionate to the time which is spent upon it; and in which, more than in any other branch of school education, the hopeless many are sacrificed to the hopeful few. I cannot but think that if the rewards of poetical composition were mainly confined to the prizes specially instituted as the reward of excellence in that particular acquirement; if verse writing were either entirely excluded, or only allowed a very subordinate value in our ordinary classical university examinations; and if, instead of it, more accurate critical knowledge, and a more extensive acquaintance with the subject-matter of the books read, were required, our schools would be freed from an incubus which presses heavily upon them, and seriously interferes with the cultivation of many other branches of useful instruction.

That, concurrently with the study of classics, a sound knowledge of geometry, and of the principles of the modern analysis, may be communicated to boys, I may be permitted to say that the experience of that school which has been under my care, St. Peter's School, York, affords sufficient proof.

I profess myself quite unable to concur in the opinion expressed by Mr. Butler, the head-master of Harrow, that the number of boys in whom it is possible to excite an interest in mathematical studies is

very small indeed. I shall, I know, have the concurrence of my able colleague, one of the secretaries of this Department, in stating that the number of boys in whose minds such an interest may be excited, is very large; and, more than this, that the number is very large of those who possess sufficient mathematical capacity to attain to a very accurate and intelligent knowledge of the subjects taught them. Up to a certain point, we should not allow the plea of incapacity or disinclination, to excuse a boy from following any particular branch of study. If the mental powers are dormant or inert, so much the more is it our duty to call them out; but, when the foundation has been laid, then I conceive we do well to make provision for enabling each boy to follow out predominantly, though not exclusively, those subjects in which we find that he gives the greatest promise of eminence.

I have, however, not yet touched upon the principal difficulty which we, the masters of local grammar schools, have to encounter, a difficulty which bears closely upon the main question which has been proposed for this day's discussion. As it has been already stated, our first object is, and I hope it always will be, to prepare our pupils for the universities. To them we send our best scholars, and from them we look for evidence of the success of our instruction. But, after all, the number of those pupils who enter the universities is comparatively small. Of the majority who are not intended for a university course, many leave us at a period so early that an education which contemplates an academical course as its supplement and completion, must be broken short off, and remain ever incomplete. The foundation is laid of dimensions sufficient to sustain a future superstructure, but that superstructure is never raised; many more come to us (and these are the worst cases) at the age of thirteen or fourteen years, so entirely ignorant of anything beyond the merest rudiments, that we at once feel that to attempt to train them to that scholarship, which might once have been attainable, is a hopeless task. Others, again, have in view certain competitive examinations, for which they require special training.

Cases such as these, are not provided for by the ordinary routine of grammar school education. To meet them here at York, as in many other places, there has been established what has been called a modern department. In other words, to use the French term, the principle of *bifurcation* has been introduced; and I feel bound to say that it has been introduced very successfully. An education has thus been provided for a very large number of boys, suited to their peculiar circumstances; not I think equal in its ultimate results as to mental development to what I should call our normal course of instruction; but practically good and substantial so far as it goes.

The principle of such a department is, to exclude the Greek language, retaining, in most cases, the study of Latin; and to substitute for Greek and for Latin verse composition, a larger amount of those subjects which are usually required in the competitive examinations. Within the last few years a large number of

pupils have thus received a useful practical education, who would, otherwise, have almost lost their time in a fruitless attempt to rise to the standard of classical knowledge which may reasonably be expected from pupils who from early boyhood have been trained in the ordinary grammar school system.

I confess myself at a loss to understand why the masters of the great public schools and the Royal Commissioners seem equally to view the addition of a subsidiary department like this as a thing almost impossible to be introduced, and if introduced, of doubtful utility. My belief is, that in grammar schools, whenever there is a fair amount of endowment, and a population sufficient to furnish pupils, there is no real difficulty in the establishment of such a department; and that where it is established, a well-conducted grammar school will furnish all that is required for the education of what I may call the upper middle class, for whatever profession or employment they may be intended.

Whether it is desirable to extend the education of the grammar-school beyond this—so as to include those who are to take their place behind the counter or at the desk at the age of fourteen or fifteen—is a question which admits of grave doubt.

We may be disposed to blink the difficulty, but it exists, and I believe most schoolmasters know it but too well, that if encouragement is offered to boys of a lower social position to enter a school, the immediate consequence is, the withdrawal of those of a higher grade, and the imputation that the school is losing caste. This may be wrong, it may imply narrowness of mind on the part of parents, but it is practically true. Every master knows that if he wishes his school to prosper he must draw a line somewhere; either by the amount of the charge made for tuition, or by some arbitrary rule he must exclude a certain class of pupils, still belonging I presume to what is called the middle class, but inferior to the others in social position. I believe I am correct when I say that at Cheltenham College this rule is made so rigid that the son of a retail tradesman is under no circumstances admissible.

What, then, is to be done in this case? How is this difficulty to be met? I conceive that in large towns it is best met by having a distinct school for pupils of this class. In some cases it may be expedient to have such a school in a separate building, but still under the supervision of the head-master of the principal school; in others it may be a separate institution; but, however this may be, without such a school there is a gap between the primary school and the school assigned for the professional classes, which is unsupplied.

I have thus endeavoured to show in what ways a royal commission would, as I conceive, be useful, and what are the points to which its inquiries should be directed. The great difficulty of instituting such inquiries arises from the large number of schools, and the very different circumstances under which they are placed.

My belief is that the best plan would be to divide the schools into

groups, according to their endowments and the population of the localities in which they are situated. A few marked schools in each group might then be taken; in the first instance, as affording types of the class to which they belong. Inquiries into the management and system of education pursued in those schools, conducted as they have been in the case of the large public schools, would afford to the public and to the legislature the means of judging how far they were discharging their proper functions, and what modifications might be introduced into them with advantage. These points being decided, and the standard being in some measure settled at which we are to aim, it may become necessary to appoint official inspectors or examiners, with power to inquire into the condition of the remaining schools, and ultimately to enforce such reforms as may be necessary in order to place them in a condition of efficiency. In the present state of the question, however, it appears to me to be premature to anticipate the precise form which any modifying or regulating power would assume.

Whatever this may be, I feel that the really earnest and intelligent schoolmaster has nothing to fear from investigations conducted by liberal-minded and unprejudiced men; and that from the results of such investigations he may have much to hope. In England, education, as a science, has been studied very little. So far as the grammar schools are concerned, the universities send forth from year to year men of high attainments in scholarship, who take their places as masters of our grammar schools, and enter upon their work, trusting partly to the traditions of the schools which they enter, partly to the recollections of their own school life, partly to the improvements in educational methods which they themselves devise; but they have really very little opportunity of profiting by the wisdom and experience of their professional brethren. The *modus operandi* of one school is hardly known in another: or known imperfectly, through casual sources of information. That body of information and evidence which we now possess, in regard to the great public schools, is doubtless most valuable for the instruction which it affords in the science of English education. I hope to see the work which has been so well begun carried out still further. I hope that every school in which active and able men work from day to day, will contribute its quota towards the solution of the great problem, how are the powers with which Almighty God has endowed the human mind to be most efficiently brought out? How is the true manhood of each individual boy—moral, physical, intellectual—to be most efficiently developed? How may the schools of England send forth a race of men best fitted to do the work which God demands from England in her place among the nations?

Suggestions for the Improvement of Middle-Class Education. *By the* Rev. Canon Robinson.

Public attention has of late been often earnestly called to the state of education among the middle classes in this country, and there is some reason to hope that at length the subject is about to receive the consideration it deserves, not only at the hands of persons of high position and extensive influence, but from the government itself. It is something, at all events, that a proposal should have gone forth for a royal commission of inquiry in reference to it; and although opinions may differ as to the practical result of such an inquiry, we must at all events welcome the promised commission as an evidence that the legislature has been aroused to a sense of the importance of the subject, while we venture to believe that the proceedings of such a commission, though they may not lead to the establishment of any great national system of middle-class education, must at least bring together a variety of important facts, supply some valuable suggestions, and awaken increased attention throughout the country.

The object of this paper is to pass in review as fully as is possible within the limits to which it is properly restricted, the different methods whereby the education of the middle classes may be extended and improved. It is scarcely necessary to say that I make no claim to originality in most of the suggestions which I shall put forward. If my paper is found to have any merit at all it will lie in the manner in which the various plans and proposals are exhibited as a connected whole, and possibly in a few of the conclusions at which I may have arrived respecting them.

I shall not devote much of my space to the invidious task of exposing and illustrating the faults and shortcomings of middle-class education as it is at present carried on. This has already been done by many competent censors, the true state of the case is now pretty generally understood, and, wherever it is understood, the necessity for improvement is unhesitatingly admitted.

The fact is patent and undeniable that what are called the middle-classes in this country—the life-blood in some sort of the nation—the classes who hold as it were the balance of the constitution—are not only in a less favourable position as regards educational advantages than the classes above and below them, but really are to a very great extent without opportunities of procuring for their children anything like a sound education adapted to their circumstances and position.

And the cause of this is sufficiently obvious. For those connected with the higher walks of life, the universities, the public schools, and the schools associated with them, make sufficient provision, and if defects have been pointed out in the systems of some of those time-honoured institutions there is every prospect of their being duly reformed and remedied. As regards the working classes again, the movement of the last twenty years has done much for their enlightenment, and through the combined agency of private benevolence

and national liberality, the child of the labourer can obtain, in most of the parishes of England, an education suited to his wants and as complete as his circumstances will allow him to make it. But the intermediate classes are destitute of all such advantages.

Of those munificent educational endowments which witness to the enlightened patriotism of other days they have hitherto been from several causes unable to avail themselves.

For them, on the other hand, no Committee of Council has built up an elaborate system of inspection, certificates, and normal schools; over the barren and dry land of their uncared-for intellect, no irriguous pecuniary supply has been diverted from the great fountain-head of the national exchequer. Their merits have been acknowledged, but their wants have been overlooked. Like probity they have been praised and "left out in the cold" (*Probitas laudatur et alget*). In the great matter of education they have been given up to the undisturbed action of that principle of supply and demand which they have rightly been taught to believe so sound in all commercial transactions, but which has certainly not answered in this particular application of it. For where do the sons of farmers, tradesmen, clerks in offices, and others of the same grade, receive what we must, perhaps in courtesy, call their education? In private-adventure schools, commercial academies, boarding establishments for young gentlemen, where—though there are doubtless honourable exceptions—great professions are made, great advantages offered, yet very little is really taught, and that little in a perfunctory, slip-shod, incoherent sort of way.

We may then, I think, lay it down as a sound conclusion, that it will not do to leave the question of middle-class education to what may be called the natural solution, that is to the operation of supply and demand. Granting that the general influence of national progress will create a more active and a more enlightened demand, it is by no means certain that the supply will follow. For the materials out of which it should come are in a great degree wanting. Under the most favourable circumstances it will be a work of time to develop an efficient educational system for the middle classes and to call forth a body of well-qualified teachers for their service. But the process will be very slow if it is to be left to the natural course of things. The classes to be benefited will in that case have to feel their own way painfully—like men groping in the dark—to the wished-for result. The only aid they will receive will be the light reflected from the systems existing for the advantage of the favoured classes above and below them. These indeed will help to show them—so far as they are able to examine and understand them—what education ought to be, but the defective training of the parents will long continue to act unfavourably on the training of the children; the man who has been himself the victim of one of the typical academies will not be very competent to discriminate between a real and sham education, between a good school and a bad one, and the splendid performance of the quack will for some time be more popular than the sober undertaking of the true man. The founders of Chalcedon who, in

choosing the site of their city, overlooked the superior advantages of the opposite coast, brought upon themselves the reproach implied in the name, "City of the Blind," long afterwards attaching to their foundation. A mistake similar to theirs, but with more excuse for it, will often be made by parents and guardians of the middle class if they are left to decide for themselves between the pretensions of rival private schools soliciting their patronage without any well-authenticated proof of efficiency or any public or national position.

But I must call attention to another fact which has had a good deal to do with the shortcomings of middle class private schools, and which will, from the very nature of the case, continue to prevent them from becoming as efficient as they should be, or from adequately providing for the educational wants of the middle classes. This fact is their necessary cheapness. In schools of this description the charge which the proprietor makes for board and education must be low, for otherwise his undertaking will suit neither the views nor the circumstances of those on whose support he depends. Hence it is that we see so many advertisements offering to ingenuous youth every advantage of intellectual culture, joined to the comforts of a home, for some eighteen or twenty pounds per annum. But sound education and the comforts of a home cannot really be provided for any such sum, unless indeed the undertaking be on the scale, not of an ordinary private school, but of a large public one.

A middle-class boy, may no doubt, be educated at much less cost than one of a higher grade, but he cannot be boarded at a very much smaller outlay to the person who takes charge of him. The farmer's son has as good an appetite as the squire's, and his parents are quite as careful to insist that it shall be properly satisfied. Hence the private middle-class schoolmaster, constrained to make fair provision for the bodily wants of his pupils, and at the same time unavoidably restricted in his rate of charge, is compelled to a severe economy in his arrangements, and he naturally enough throws the burden of that economy, as far as possible, on the educational department of his establishment. Moreover, the difficulty of making these private adventure schools at once efficient and profitable, must tend to prevent men of good standing and superior ability from embarking in them. A man must be very remarkably constituted if, having much choice in the matter, or many alternatives open to him, he is willing to undertake the responsibilities and labours of a school without the hope of its proving at least fairly remunerative. Delightful as the task of rearing the tender youth may be, it has its trials, its disappointments, its fatigues; and it is not wonderful that if a man of ability and scholarship elects to undergo them, he should expect to be well paid for doing so. It is no reflection on the middle classes to say that at least as much tact is required in dealing with them as with their neighbours, and that their children are quite as difficult to govern and to instruct. For the reasons above given, therefore, I do not believe that the problem of middle-class education can safely be

left to what I have already called the natural solution, or that the middle classes themselves are competent to make every necessary provision for it.

How then is the question to be dealt with? It seems obvious that as advanced education on the one hand, and primary education on the other, the education of the upper and the education of the lower classes, has at different times been greatly indebted to voluntary effort and private munificence, so the same appliances must be made use of on behalf of the education of the middle classes. External co-operation is required, and assistance must in some form be given by those who are interested in the welfare of the nation, and have some practical insight into the educational requirements of the class to be benefited.

But it does not appear to me that it would be possible (considering the social and political condition of the country) to establish any general and uniform system of middle-class education under the direction and control of government. Whether this would in the abstract be desirable or not, I need hardly stop to inquire, for there seems no likelihood of its being attempted or even seriously suggested by any one whose recommendation would give it a chance of being discussed in the national legislature. There remain, however, other alternatives, and in proceeding to consider them, I may at the outset observe that the improvement of middle-class education will best be secured, not by the rigid adoption of any single scheme, but by the combination of a variety of plans and expedients directed indeed to one end, but carried out by independent though harmonious movements. In this way the sympathy and support of different parties—each having its own theories and its own aims—will most readily be attracted, excessive centralisation will be avoided, and the education itself will be imbued with that health, elasticity, and freedom so characteristic of our national life.

That the middle classes are willing to accept of assistance and guidance in this matter need not be doubted. Where the experiment has been tried they have generally shown themselves quite ready to take advantage of institutions the character of which was guaranteed to them by persons in whom they had confidence. There is among them no reluctance to avail themselves of an education which may be in some degree eleemosynary. Indeed the cheerful alacrity with which the higher classes have for so many years consented to profit by the endowments of our universities and public schools, would make any shame or scruple on the part of others, with reference to the question of material aid in education, altogether superfluous.

Amongst the plans, therefore, attempted or suggested for carrying out the object in view, I shall in the first place refer to the foundation of public middle schools; and I refer to it first because the experiment has already in several instances been tried, and that too with very considerable—in some cases with complete—success. The establishments of this kind already founded have originated

from different aims on the part of their founders, and manifest a corresponding difference in their tone and constitution.

For example, there are the middle schools in Sussex, due to the energy of Mr. Woodward, which owe their existence to the spirit of zealous churchmanship, and were intended to carry the influence of the Church amongst the middle class. Around these valuable institutions there naturally floats something of a High Church atmosphere, and a grave and reverend ecclesiasticism pervades their solemn precincts. A foundation of a different character is the farm and county school at West Buckland in Devonshire, a thoroughly Church of England institution also, but on a somewhat wider basis, established more exclusively with the aim of improving middle-class education in the county, and of furnishing a type of what a good practical middle-class school ought to be. It has also the specific feature of combining with its system of general education, practical instruction in scientific farming.

But my space will not allow me to exemplify the different types of middle-class schools which awakened interest in the subject has already called into existence. Let me rather invite attention to the importance of multiplying such foundations till at least all the larger and more populous counties of England possess them. It seems desirable that in each case the movement should originate with the great proprietors and leading persons in the counties. The co-operation of such men will give soundness and stability to the undertaking, and will tend to attract the notice and to secure the confidence of the public. The formation of a district committee or county board might perhaps be the first step, and from such board trustees and managers should be chosen, in the former of whom the property of the schools should be invested, while to the latter should be committed the general control and supervision of the establishment. The next thing would be the erection of suitable buildings in some central situation well provided with railway communication, but not in the immediate vicinity of any large or populous town. The cost of erecting such buildings would constitute the principal demand which it would be necessary to make on private liberality. Something more would be required to put the school in working order, but the number of pupils for whom accommodation is provided and the rate charged for board and education should be so adjusted as to make the institution ultimately self-supporting. It is of course obvious that, to meet the circumstances of the middle classes, the rate of payment must be moderate. As education becomes more highly appreciated among these classes they will of course be prepared to make greater sacrifices to obtain it for their children, but still it cannot be expected that, as a body, they will ever be in a position to incur more than a moderate expenditure for this object.

In fixing therefore the rate of payment it will be necessary to bear in mind that amongst those who may be regarded as belonging to the middle class there is great difference of means, and that it is most important to make the projected schools available for the greatest

possible number of grades into which the middle class may be divided. To this end it would perhaps be best to fix a *minimum* charge, and in consideration of it to guarantee a certain course of education embracing those subjects most essential for boys of the middle class, and most adapted to their position and prospects. A scale of extra payments might then be fixed for more extended or advanced instruction, and it should be optional with parents to avail themselves of this additional instruction for their children or to decline it according as their circumstances might make expedient. In this way a public middle-class school would be rendered acceptable to the greatest possible number of persons of various conditions and callings.

If I may be permitted to enter more minutely into details I would suggest that the *minimum* charge should not be less than £22, and that the optional list of extras should not carry the whole cost higher in the aggregate than about £30. If I am not mistaken, Mr. Woodward proposes to fix the fee in the school now in the course of erection in Sussex, at £16 per annum. This charge seems to me too low for a middle-class school. It will no doubt exactly meet the circumstances of some of what may be called the lower middle class, but it is surely much less than the majority of the middle class can well afford to pay. Moreover, I can scarcely believe that with such a rate of payment a school can be made self-supporting. As far as such experience as I possess enables me to judge, it is my belief that a school containing 100 boys with an average payment of £22 per head might be made both self-supporting and efficient. It is of course well-known to everybody that an increase in the number of pupils will add to the economy of working, and this indeed is a chief argument in favour of the establishment of middle schools on a large scale and capable of accommodating great numbers. I am aware that another argument in favour of such foundations is the wholesome effect which it is supposed that large public schools have on the tone and character of the pupils. It is thought that if middle-class boys can be brought together in such masses as are collected in public schools of a higher grade the result will be a development among them of *esprit du corps*, of larger views, of greater frankness, manliness, and self-respect. It may be so; but at all events in connection with this point there is one thing which would, I think, be secured by the establishment of middle-class schools through the co-operation of influential persons of different opinions and pursuits. They would reach beyond the narrow limits of sect and party. They would not represent, neither would they be expected to recommend, any peculiar phase of opinion, theological or other. The foundation of middle schools for the purpose of advancing the interests of what the founders believe to be truth in the form of some religious party or denomination, is perfectly legitimate, and will indirectly serve the cause of middle class education. But the middle classes are at present only too prone to sectarianism, and one cannot, therefore, but deprecate in some degree whatever tends to perpetuate and to strengthen the sectarian spirit among them. Hence I should be sorry to see any great crop of distinctively

High Church, distinctively Evangelical, or distinctively Non-conformist middle-class schools springing up in the country. County schools, while affording an education essentially religious, may be constituted on a basis sufficiently broad to admit the children of parents of different religious views, and thus may be instrumental in diffusing amongst a class that greatly need such influences, larger views of truth, and a wider and more genial spirit of toleration.

It has often been suggested to establish schools for some one class of persons exclusively, as, for instance, for the sons of farmers, and to make such schools to a considerable extent places of professional training. This would not, I think, be generally desirable. The effect would be to strengthen such prejudices and to perpetuate such peculiar habits and narrow notions as might be characteristic of the class so isolated. The mixture of boys from towns with boys from the country, the bringing together the sons of farmers, of tradesmen, of manufacturers into one fellowship, will be an important element of education for classes that very much need a wider circle of sympathies and associations. As to professional training, little, I imagine, can be expected from attempts to connect it with school life and school work. School is the place to mould the boy's character, to develope his faculties, and to store his mind with the first principles of knowledge. The apprenticeship which is to fit him for his future calling is a separate thing, and had better be allowed to follow its own place and time.

The notion has occurred to some that middle schools might be founded by companies formed on the principle of limited liability. The advantage of such an experiment would be that persons of the middle class might then not only reap the benefit of such schools but might also take an active part in their foundation and administration. The difficulty on the other hand lies in the improbability of the investment being a remunerative one. Nevertheless, the principle might be so far recognised as to allow certain educational rights and privileges to contributors and shareholders.

Another method whereby the education of the middle classes might be greatly improved is the establishment, under good and influential management, of middle day schools in towns and popular districts. For this little is wanted beyond enlightened enterprise and wisely-directed effort. Such schools if at all successful, cannot fail to be self-supporting. Given a committee of management consisting of three or four persons of influence, energy, and judgment; good school-buildings; an efficient teacher; an annual school fee of two or three pounds, payable quarterly or monthly as may best suit the convenience of parents, and the thing is done. The Model School connected with the York Training College is an institution of exactly this sort, and having been instrumental in establishing it I may perhaps be allowed to refer to it as a type of a school, financially and educationally successful, that might easily be re-produced in every town in England. There remains, however, another resource from which provision might be made for the education of the middle

class at no expense but the extinction of a few flagrant abuses, and the loss on the part of certain sinecurists of comfortable positions and bread lightly earned without sweat of face or effort of brain. I refer to the appropriation to this object of the numerous educational endowments which are at this present time contributing little or nothing towards the spread of education.

I have already referred to the fact that the middle classes have in most cases neither part nor lot in the benefit resulting from these endowments. That they are at liberty to take advantage of the endowed grammar schools is not of course denied, but as these schools do not generally offer the kind of education which they want, the privilege of access to them is of little account.

Now that the classes in question are entitled to be considered in the appropriation of these ancient benefactions is indisputable. It would not, I think, be difficult to show that in many cases an assignment of them for their advantage would be the nearest approach if not to the letter at least to the spirit of the original donor's intentions. Certainly it is now admitted that the interpretation which fixed on the word "grammar," as applied to schools, the sense of "classical," was "historically erroneous," and that in many cases the founder of such schools desired to provide for all time to come not merely a classical but a general education.

It is not accurately known what is the total yearly value of the charities devoted to education. An estimate which should fix the annual income at about £400,000 would certainly not be excessive. Of these charities a certain number were expressly founded for the benefit of the poor, and whether at present in healthy and active working order or not, have at all events never been diverted from that object. With regard to these it is only necessary that they should be made as efficient as possible. They have no concern with our present object. About one-half of the amount named above represents the collective income of the grammar schools, and we are, I think, justified in urging that a fair proportion of this income should be set apart for the purpose of middle-class education.

In the first place there still are some well-endowed grammar schools—though it must be confessed that the number of these is continually diminishing—which, while claiming the position and immunities of classical schools, are affording to those who desire to take advantage of them, neither a classical education nor a real education of any kind. I have in my mind at this moment a school of this character. It is situated in a provincial town of some importance to its own district, a principal station on one of the leading lines of railway. The property of the school is large, sufficient probably under good management, to produce a sum not far short of £1,000 per annum. As far as any educational results go, this school is almost worthless. There are no boarders. The day scholars are not numerous, for the townsfolk do not appreciate—or perhaps it would be more correct to say they do appreciate at its true value—the miserable pittance of Greek and Latin that is retailed there, and for genera

subjects the national school is a formidable rival, and sometimes draws away pupils from its opulent and long-descended neighbour. Now the condition of this school is not purely exceptional. Others may be discovered in a state of suspended animation almost equally deplorable. Would it not be a good deed to lay hold of such foundations as these, and convert them, as soon as possible, into thoroughly well organised middle-class schools? They would thus be made of the greatest possible use to the greatest possible number of people. In many cases the circumstances of the neighbourhood in which they are situated, while ensuring them against ever being of much account as classical schools, would be admirably adapted for the development of a middle school. But I would venture to go a step further. There are a great many provincial grammar schools, which, although under the charge of able and accomplished masters, ready, if called upon, to send up pupils to the universities thoroughly equipped with classical scholarship, yet cannot, from the nature of the case, find scope for efficient and extended action in a classical direction. It would be a great gain to the cause of public education if a proportion of these institutions could be converted into distinctively middle class schools. In some cases, I am aware, this has directly or indirectly been done. A secondary element (if I may call it so) has been introduced, and some of the more important subjects of an English education are taught in company with the traditional studies. But this compromise is not perfectly satisfactory. In most instances the schools would do better if instead of trying to meet the wants of two classes of pupils, they were unreservedly devoted to the interests of one. Moreover the reform should be effected according to method and system. It is not difficult, but it may well seem presumptuous, to recommend from the study table of a country parsonage, a great organic change in the destiny of important national endowments. I venture, however, with an apology for my presumption, to offer for consideration the following suggestions.

In addition to the great public schools supplemented by private enterprise, a limited number of provincial grammar schools would be sufficient for the requirements of advanced education. As there are few towns of any antiquity or importance in the kingdom that do not possess an endowed grammar school, it is obvious that there are many more than are wanted for this purpose. And it is this excess of supply that accounts for the languid condition of many provincial grammar schools. This surplusage of institutions, then, should be diverted to middle class education. It can only be effectively done by legislative interference, for it should be done, not with partial and local aims, but as a great national work. Thus the country might for purposes of organisation be divided into districts. The most efficient and best situated grammar school in the district should be retained as the High School, the place for advanced and classical education.

The remaining grammar schools should be converted into middle schools, and organised on the plan best suited to the circumstances of the classes who would make use of them. Some would answer best

perhaps as day schools; others would be adapted for the reception of boarders. In some cases it would be desirable to amalgamate two or more schools and to consolidate endowments. The objection to a scheme like this is its apparent infringement on local claims and rights, and its tendency to centralise the management. But surely, when national interests are involved, it is possible to be too tender of local privileges. Communication between one place and another is now so easy and rapid, that the influence and advantage of a good school is not confined to the narrow area which the generous bequeathers of the old endowments were desirous of benefiting. The interference of government for the systematic reconstitution of these educational charities would not hinder their ultimate assignment under new conditions, to local management. It certainly seems to me that thus far and in this direction, state intervention on behalf of the education of the middle classes is not only legitimate but imperatively called for, and though I cannot bring myself to desire—as I think Mr. M. Arnold does—a complete system of middle-class education provided and paid for by the state, yet as far as endowed schools are concerned, I heartily adopt and echo his appeal: "Regard the necessities of a not distant future, and organise your secondary instruction."

The propounder of such suggestions as I have ventured to put forth, must not decline the appeal to facts and figures. I will, therefore, endeavour to justify my conclusions by reference to those authorities, proverbially fallacious though they be. My information is drawn from the evidence laid before the Education Commission of 1860. To the Charity Commissioners Report I do not think it right to appeal. For my present purpose it is somewhat out of date. Schools languishing or moribund at the time to which it refers may now be doing good service. In the first place, then, from the evidence of Mr. F. O. Martin, I extract the following particulars as to Ludlow Grammar School. The income is £518 per annum. There were in 1860 about fifty boys in attendance. Exhibitions to the universities of the value of £150 (exclusive of the school income) are attached to the foundation. These exhibitions (in the interest of the town of Ludlow) are limited to day scholars, and consequently they are in abeyance. It seems that of the fifty boys in attendance, twenty-two were boarders, leaving twenty-eight as the number of pupils supplied to the school by a town with a population of nearly 5,000, and this too in spite of the attraction that might be expected to lie in liberal exhibitions to Oxford or Cambridge. This condition of things is conclusive as to the degree in which "a good classical education" is suited to the wants of the rising generation in Ludlow. Take from the same evidence the case of Reading. The grammar school there has an income of £104: when visited by Mr. Martin it contained twenty-two boys. The population of the town is upwards of 14,000. Again, the little town of Stamfordham, in Northumberland, has a grammar school with an endowment producing £172 per annum. The attendance is stated by Mr. Martin

to be about eighteen. The master, he adds, "is perfectly fit to teach a school of much greater pretensions."

From the evidence of Mr. Cumin in the Report on Educational Charities, the following instances are selected to illustrate the position that grammar schools do not in very many cases supply the sort of education needed in the neighbourhoods where they are situated.

At Warrington, with a population of 23,651, there is a grammar school with an income of £484. In 1858 the boys educated were thirty-five, but of these there was only one boy in the first or second class.

At Milton Abbas in Dorsetshire, the income of the free grammar school amounts to £199 18*s*. At the time of the inquiry there were 58 private pupils in the school, but no scholar on the foundation, which therefore appears to be useless.

At Wotton-under-Edge, in Gloucestershire, there is a free grammar school the income of which is £536 11*s*. 9*d*. There are ten foundation boys. The boys are nominated, but the applications do not exceed the vacancies. Were it necessary, or did space permit, these examples might be very largely multiplied. They are sufficient, however, to illustrate the position which I am endeavouring to support, namely, the expediency of converting a fair proportion of the so-called classical schools of the country into schools for the education of the middle-classes. As a kind of set-off to them, and at the same time an additional argument in favour of my recommendation, I may refer to the grammar school at Bath described by Mr. Cumin, where something like the conversion I ask for was really effected, and where in two years the numbers in attendance were consequently doubled.

But I have already devoted as much time to the exposition of my views as I am entitled to appropriate. It seems to me that the suggestions which I have put forth are, if adopted in combination, sufficient to meet the requirements of middle-class education.

The schools founded by associations of noblemen and gentlemen in the counties with the co-operation of members of the middle classes, would especially meet the wants of the rural districts, and would exhibit types of the public middle school on a large scale and with some freedom of organisation and a wholesome variety of distinctive features. The re-constituted grammar schools, again, taking up ground unoccupied by the former, would represent the national element in the movement and would furnish a proper field for the interference and co-operation of the state. That every interest might be consulted and every aim satisfied, there would still be room for the establishment of a few schools of a denominational or a professional character; trade schools, agricultural schools, science schools, schools pledged to do the work of the Church on the one hand or of Dissent on the other. Lastly, the private-adventure school would not necessarily be driven out of the field; only to maintain its place there it would have to prove its efficiency, and its conductor would have to show himself a workman that need not to be ashamed in the great business of handling intellectual and moral natures.

But granting the soundness and feasibility of the schemes which I have propounded, other conditions—besides the adoption of them—are necessary to the effective improvement of middle-class education. The school, when established, has to be organised, officered, maintained in a state of ever increasing efficiency—and to this end a great many things are required. One is a regular system of middle school inspection. It is impossible for one who has witnessed the benefit of this in the case of elementary schools not to desire earnestly to see it applied to other classes of schools also. How this is to be done is a question that might be discussed at considerable length. The committees and boards of management of county schools would be at liberty to appoint their own inspectors; the government would properly make provision for the inspection of the endowed schools. But after all it seems to me that the appointment of two or three general inspectors of middle-class schools would be a step which the government might take, by way of experiment, without being open to the charge of rashness or precipitancy. Officers so appointed would come with the best credentials and the highest authority, and in the course of time even the private schools would solicit their visits and find their advantage in doing so.

Another point upon which some thought and labour might be usefully bestowed is the proper course of study for a middle school, and the best method of teaching the subjects of the course. Under this head many questions at once suggest themselves. It is very important, for instance, to secure thorough mental training, and yet, at the same time, to make the instruction as practical as possible. The school subjects naturally divide themselves into two branches. There are first the disciplinary, and secondly the professional. They must be mixed in proper proportions. Too varied and ambitious a programme should be avoided. Ought Latin, as a rule, to be taught? I think so, up to a certain point, but only in subordination to English, and as a help to a knowledge of the constitution and character of the mother-tongue. A modern language would not in many cases be out of place in the syllabus. Science is a branch of study well suited to the circumstances and practical character of the middle classes, and should indeed be an element in the education of every English youth in this nineteenth century.

But I must pass to the last topic on which I wish briefly to touch. It is a most important one. The great want in connection with this movement is a body of efficient middle-class schoolmasters. How is this want to be supplied? Any great impulse given to the establishment of middle schools would call forth a number of candidates for the vocation of teacher. The raw material would unquestionably be forthcoming. But it must be wrought up into efficiency. The establishment of a middle-class training college seems therefore to be one of the earliest requirements, if the question of middle-class education in this country is really about to be taken up with energy and thoroughness. The study of education as an art and a science is yet in its infancy. It would be well if all possible encouragement were

given to it. Lectures on pedagogy (as it has been called) would not misbecome the universities.

There is an excellent opening for the University of London, for instance—emphatically the middle-class university—to add to its acknowledged merits the distinctive characteristic of establishing a sort of professorship of education, and of granting degrees for proficiency in the theory and practice of the art. The system of certificates adopted by the Committee of Council in the case of elementary school teachers is capable of extension to other classes of instructors, and it is not unreasonable to urge that no one should be permitted to teach any more than to bleed, blister, amputate, and prescribe without a regular diploma. There is indeed a movement now going on to obtain from the legislature a measure, analogous to the Medical Registration Act, applicable to all classes of teachers. The advocates of scholastic registration demand that everyone presuming to undertake the education of youth shall be required to submit to registration as medical practitioners now are, and that, as a condition of registration, they shall produce certificates of attainment, competency, and good moral character from some public body of recognised qualifications and authority.

But this movement deserves more consideration than can be bestowed on it at the close of an essay. It will, I sincerely hope, attract the attention and enlist the support of all the friends of national progress. There is nothing connected with education so vitally important as the character and qualifications of the educator. As surely as Louis Quatorze was the state, so surely is the scheolmaster the school. Above all things then let the active promoters of middle-class education see to the provision of a body of able earnest and accomplished teachers. With these duly provided, and a fair field for them to operate in, the work will be done. And what a work it is! There is nothing which touches the national life more closely than the condition of the middle classes. There is much that is estimable in these classes, but they greatly need a higher culture. Let the efforts of those in prominent positions, and the measures of those in office, co-operate to secure it for them, and an amount of good will be achieved which can now be hardly realised. Public opinion will become more enlightened, public manners more refined, public morality more elevated and pure. National enterprise will be more wisely directed, and will meet with more ample returns. National genius will be more inventive, national thrift more systematic. The star of England's prosperity and greatness will thenceforth shine with a larger and more benignant light.

The proposed Royal Commission of Inquiry into Middle-Class Education. By J. G. FITCH, M.A., *One of Her Majesty's Inspectors of Schools.*

THERE can be little doubt that in declining to legislate hastily on educational matters, and in relegating the task of making the needful preliminary inquiries to a body of picked and responsible men, our houses of legislature have shown great discretion. For the whole subject of public instruction is so vast, and touches so many personal interests and vested rights, and there is such a curious absence of symmetry in our educational machinery, that it would be as difficult as it would be inexpedient, to take measures for its improvement, without first instituting a laborious inquiry into the facts of the case. Accordingly several Royal Commissions have recently investigated the nature of the provision existing in Great Britain for the instruction of her children. One has examined the condition of elementary instruction in schools for the poor, others have reported on the state of the universities, and one, which has just concluded its labours, has inquired into the resources and management of the great foundation schools, in which the children of the rich are taught. And now it is proposed that what has been done for the upper and lower strata of English society shall be done for that great mass which lies between them, and a special commission is to be nominated, with power to investigate the nature of the provision existing for the education of the great middle-class, and to report the results of the inquiry to the Crown and to the country. Who that is interested in the subject of education can look forward to such an investigation without solicitude? Who that has read the eloquent, far-seeing, and exhaustive report of the Public School Commission can be otherwise than very hopeful as to the result of similar labours in a new and not less important field? We can indeed have no higher wish for the new commission than that it will follow that admirable precedent, and that it will furnish to those who desire to form a judgment on the whole subject, materials not less abundant and trustworthy than those which the Public School Commissioners have gathered with so much diligence, and generalised with so much skill.

It cannot be improper to discuss by anticipation in this place the scope and purpose of the commissioners' inquiries; because, in truth, if those inquiries are to be carried to a successful issue, much more of the sympathy and aid of the educated public will be needed than any former commission has found it necessary to ask. The new inquiry will be, in many respects, singularly delicate and difficult. For, not only the universities, and the great foundations of Eton and Harrow, but also the elementary schools to which former inquiries have extended, have all a public or *quasi*-public character. They are easily accessible. They are in the hands of men who are all more or less responsible to the public for the right discharge of

their duties, and from whom it is at least not impertinent for the State to demand whatever information they can give. But the education of the middle classes is largely in the hands of private enterprise, it is a matter of contract between parent and teacher, and the State, as representing the community, is not, even in the most indirect way, a party to the contract. The rich have appropriated the universities and the great schools, with all the valuable endowments which those institutions inherit. The poor have appropriated the parliamentary grant, and with it all the incidental advantages of trained teachers, properly adapted buildings, and systematic supervision. But the middle classes are cut off from both these resources. And, what is more, they are proud, not wholly without reason, of their independence in this respect. They are in a position which enables them to dispense with all pecuniary aid in the matter of their children's education, and so they have as a class come to suppose that help or guidance in any other form is not only superfluous for Government to offer, but humiliating for them to receive. It cannot be doubted that interference, even in the way of inquiry and suggestion only, may be regarded in some quarters as an affront, and that the middle class may possibly be found more sensitive and uneasy under the inquisition of a Royal Commission than either the class above, or that below it.

There is one branch of the inquiry in relation to which this difficulty will scarcely be felt. The endowed grammar schools which are scattered all over the country, are obviously the first subjects of investigation. Their names are known ; their doors can readily be opened, and whatever is worth knowing about them can easily be learned, if time and sufficient help and ample powers of inquiry be granted to the commissioners. What are the revenues of these institutions, whence they are derived, how they are administered, who manages them, to how many and to what class of scholars the teaching is given, and what sort of teaching it is, how far the intentions of founders are actually carried out ; whether, in short, under the altered circumstances of our times, a better use might not be made of these institutions, are questions which require to be asked, and which admit of instructive answers. This, however, is a topic which has been dwelt upon by Canons Hey and Robinson, and it is not my present purpose to consider it at length.

A far wider and more difficult field of inquiry lies before the commissioners. They will seek to form an estimate of the private schools of the country. To this end, it will be necessary to inquire what these establishments are doing, what is the class of people who conduct them, and what are the qualifications they possess for their office ? It will be found that in this region, the principle of open competition works without hindrance, and an attempt will probably be made to ascertain how it operates, and what are its practical consequences. Difficult as it will doubtless be to arrive at certain conclusions on this point, with all needful tenderness to existing interests and to traditional habits of thought, I cannot doubt that the

commissioners will find a way of reaching the data which they require, and of turning them to good account.

It will be found, that if we exclude the endowed foundations, the provision for middle-class education consists of three kinds of schools. They are—(1) the proprietary schools, of which those in the neighbourhood of London, affiliated to King's College, may serve as types. These are controlled by local boards, whose members hold shares, and for the most part send their own sons to be educated in the school. They have a sort of semi-public character, and are generally placed under the care of clergymen who have taken a good university degree. The masters have a direct interest in the prosperity of the school, and are removable by the proprietary if they fail in their duties. Institutions of this kind exist for boys only. There is nothing resembling them available for girls. (2) The better class of private schools, under the care of graduates of the universities or others who have given to the world some guarantee of their qualifications. These are the schools whose names figure honourably in the lists of the Oxford and Cambridge Local Examinations. They are, as a rule, respectably conducted, and I believe that the number of them is daily increasing. Akin to them, and in the same class, are the ladies' colleges, and the higher kind of girls' schools. Below these are (3) the private adventure schools for both sexes, boarding schools, establishments of various degrees of pretension, but conducted by persons with little qualification for their work, beyond the means of opening and furnishing a house, and the power to draw up an advertisement. These are the "classical and commercial academies," the cheap "seminaries," the "educational homes," which attract the children of the small trader and the clerk, because they are more "genteel" than the National or British School, but which often furnish a training far inferior, both as to exactness and intelligence, to that which is to be obtained by the labourer's child.

But of good, cheap, well-ordered and sensible establishments for the middle classes, resembling the *lycées* of France, or the *real schulen* of Germany, schools under systematic supervision, invested with a public character, and animated by a public spirit—schools for which a curriculum has been fashioned, in harmony with the actual requirements of modern life, the commissioners will, it is to be feared, find very few. It will manifestly be their function to inquire what are the difficulties in the way of establishing such institutions, how far these difficulties have been met by such efforts as those of Sir Edward Kerrison in Suffolk, Lord Fortescue in Devon, or Mr. Woodard in Sussex: whether in order to form great county schools of this kind it would be expedient to alienate the funds of worthless or moribund foundation schools; and what, if such schools were once formed, should be the constitution of the governing body, the method of instruction, and the means of sustaining their efficiency from year to year.

Another branch of inquiry will necessarily relate to the instruc-

tion given in the ordinary middle-class schools. I fear it will be found that the common curriculum is in fact a copy, and a very bad copy, of that adopted in the old grammar and foundation schools. The Latin grammar and delectus furnish the staple of the instruction, and fill up a large portion of the learner's time, in the average academy and boarding-school. Nobody pretends that this is done on any principle. Nobody supposes that with the whole range of modern knowledge before us, it would ever occur to a teacher, looking at the matter with fresh eyes, to select the elements of the Latin language as the main occupation of a boy during the most precious hours of a school life which is to end at the age of fifteen or sixteen. The tradition that the "classics" constitute the true basis of a gentleman's education, dates from a time when classical learning was the only learning, and when a well-instructed pedagogue had nothing else to teach. It is impossible to say that this tradition is intelligently and deliberately adopted by modern schoolmasters. But it is blindly followed nevertheless. And the modern system of teaching —if system it may be called—in the classical academies, is one into which we have drifted helplessly, rather than one which has been consciously selected by the intelligence of the nation, from a belief that it is the best.

Now the recent report of the Royal Commissioners on Public Schools, enables us to see what is effected by the usual "classical" teaching, even in the most favourable circumstances, in places where the pupils devote their whole time to Latin and Greek; where they remain at school until nineteen years of age; where they receive instruction from the picked men of the universities; where they live in the midst of traditions and are encouraged by lavish rewards which stimulate them to effort; and where, in short, everything combines to impress them with the notion that classical scholarship is the Alpha and Omega of intellectual life. Yet the Commissioners, speaking of the great schools on which they had to report, say, "the number of well-taught classical scholars, notoriously forms a small proportion of the boys who receive a public school education." Moreover, it appears in evidence that of the whole body of pupils who quit the public schools, less than one-third ever enter the universities. Of those who do present themselves for admission, it seems that a great many are rejected, or if allowed to enter, pass in because the standard of qualification has been lowered to a humiliating point. Thus, "at Christ Church, Oxford, a candidate for matriculation is expected to construe a passage from a book (which he has read before) of Virgil and another of Homer; to write a bit of Latin prose, and to answer some simple grammatical questions." Yet in 1862 one-third of the candidates failed to fulfil these easy conditions. A public examiner at Oxford says, "It is difficult to say what proportion of candidates for matriculation can translate a new passage from a Latin or Greek author. At my own college we consider such a test would be too severe. The college would be left half empty if it were insisted

on." And one of the censors at Christ Church, Oxford, adds, "Very few (of the candidates for admission into the university) can construe with accuracy a piece from an author they profess to have read. We never try them with an unseen passage. It would be useless to do so. Tolerable Latin prose is very rare. Perhaps one piece in four is free from bad blunders. A good style is scarcely ever seen. The answers we get to simple grammatical questions are very inaccurate."

Now in estimating the worth of such testimony as this, which abounds in the Report, it should be borne in mind that it is for the most part reluctant testimony, that it comes from persons whose own education was fashioned on the classical theory, and who have very natural prepossessions in its favour. The Commissioners were, I think without exception, public school men. The persons from whom their evidence has been gathered are either those who were once distinguished classical scholars, and have since derived profit or reputation from the success of their academic career; or men who have been teaching classics all their lives, not necessarily because it is the best kind of knowledge, but because it is the one kind of knowledge which their own education and habits of thought have qualified them to give.

But if, according to the testimony of witnesses like these, the results of the school course are so unsatisfactory, what is likely to be the value of that humble imitation of the classic curriculum which prevails in the lesser grammar schools and in the private academies? For in them, the average age to which the scholars remain under instruction is certainly two or three years less than at the public schools. The proportion of scholars who intend to matriculate at any one of the universities is much smaller, the inducements in the way of exhibitions and rewards are far weaker, and the qualifications of the teacher—at least as far as scholarship is concerned—are, as a rule, much lower. Unfortunately, it is not very easy to get at the results of classical teaching in such schools, or to formulate them in a statistical table. But I think that if we could poll—say, for example, the 20,000 men who enter London in omnibusses every morning, and ask them what they know of Latin, or test them with half a dozen lines of Ovid, we should get some statistics that would astonish us. It would probably be found that a large number of them had professed to learn Latin at school, and had sacrificed some of the best years of their lives in attempts to acquire it. But how many of them ever open a Latin book? How many have caught the spirit of ancient Roman life or polity, or acquired an insight into Roman literature? How many even have ever gained one glimpse of the history or modes of thought of our own middle ages, to which Latin, if studied to any purpose, forms so effective a key? Who is there among them whose school study of Latin has left any traces on his political opinions, his knowledge of the world, or his notions of right or wrong; or whose thoughts are coloured in any way for good or evil by the language of the Romans or their literature?

But it may be replied to all this, that Latin is not taught for the sake of the literature or the history to which it ostensibly professes to introduce the student; that considered as an instrument of education, it is disciplinal only; that it is one of the things which is meant to be forgotten; that "except the corn of wheat falls into the ground *and dies*," it fails to yield its highest fruit: that, in fact, it is not Latin, but the residuum of mental power and fertility given to the mind by the learning of Latin, which is chiefly valuable. This is a view of the case which no wise man can afford to overlook. But it presupposes that Latin is, if not philosophically, at least intelligently taught. There is a way of teaching even the first page of the Latin grammar, so as to make it an excellent study in language; there is a way of teaching English through Latin, and of causing every lesson in technical grammar to increase a boy's power of thought, and his command of the resources of his own tongue. But this is not the method adopted in the ordinary private school. There Latin is a thing not to be explained or analysed, or compared with English, but to be learned by heart. It is taught empirically. Lessons are set, exercises are wrought, and that is all. Nay, the very secret of its popularity among schoolmasters is, that the traditional methods of teaching it are so easy and mechanical, that they demand the minimum of thought or original teaching power on the master's part.

It is not too much to say then, that while the average scholar in a boarding-school does not obtain such knowledge of Latin as introduces him to an acquaintance with Roman literature, he does not even obtain by way of compensation much of the indirect advantages which Latin is designed to give—the mental discipline, the fine taste, the *copia verborum*, the exactness of expression, and the knowledge of the principles of language. The truth is that to secure any of these results, it is not only necessary to teach on better methods, but also to carry the course of instruction much farther than the ordinary middle-class scholar ever goes. There is no more significant problem in education than to determine when and how the teaching of a given subject begins to bear intellectual fruit. There are great differences here. If you teach a boy to add up five figures, and never carry him a step farther in arithmetic, you do him a service. The power to add up numbers is a new and useful faculty. It is good *per se*. So every physical and historical fact has its own intrinsic value as part of the furniture of the mind, and may become practically available in the commerce or the controversies of life. And even in mathematics, where the continuity of the study is of so much importance, the early exercises have a sort of completeness of their own. The boy who has only reached the fifth proposition of Euclid, and who can follow its reasoning rigorously and exactly, is *pro tanto* the better even though he never learns the sixth. But, as commonly taught, the early lessons in Latin have no value whatever, except as an introduction to the lessons which are to follow. There is a point

in the history of all studies, at which the rudiments, the memory-work, the hard rules, and the dry unmeaning formulæ, become so assimilated, that they pass into the form of culture, and become permanent though unnoticed elements in the strength or refinement of the mind. This point is reached sooner in some studies than in others. But it takes a long while to reach it in the study of the classics. If we will only go far enough, all the gerund-grinding begins to tell, and we find that though slowly, it has opened to us a new world of thought. But if we do not go far enough, our work comes literally to nothing. It brings us by a weary road, up to the threshold of a fair building, into which we never enter. And all the toil is lost. True there has been an effort of memory and of application; but the effort has been spent in learning something which is in itself utterly useless, and which, unless it is incorporated by subsequent study with the organic life of the mind, is soon cast out as a dead thing, and disappears for ever. The same discipline for the memory and for the faculty of attention may as easily be obtained in learning something which has a real value of its own. And life is not long enough to spend any of it in learning, merely for the sake of learning, any one thing which is useful to us neither as a means or as an end.

And it surely need not be insisted on here, that relatively to the range of modern knowledge and thought, the classics occupy a far less important position than they once held; and that however old habits and traditions may blind us to the fact, the results of classical study are daily less and less influential on all our minds. We cannot deny that for all practical purposes Latin has ceased to be the common language of educated Europe. Bacon and Hobbes and Newton thought it necessary to put forth the most precious results of their thinking in Latin; but John Stuart Mill and Whewell and Herschel do not choose the same medium now. No modern controversies are likely to be carried on in the language employed by Cardinal Pole, by Erasmus, by More, or by Milton and Salmasius. When the grammar school system was shaping itself, and before it had become formalised and petrified into its present shape, Latin was to all intents and purposes a living language, for it served as a medium of communication to all the thoughtful men in Europe; and supplied to them, not only materials for thinking, but forms of thought. Now, except in that wonderful dialect which the learned societies employ in conveying to each other the characteristics of a new variety of spider or of fern, Latin has ceased altogether to fulfil this function. The occasions on which it is necessary to write two lines of Latin are extremely rare in the life of any educated man.

And if it is true that Latin can no longer claim that direct and obvious utility which belonged to it, when the grammar school system was fashioned, it is no less true that it has ceased to exercise the indirect influence over our literature which it once possessed. We have scholars still, scholarly poets, scholarly essayists, scholarly

novelists. In their writings we may trace not a few allusions to classical lore, sometimes occurring naturally and spontaneously, more frequently as the result of some special line of reading or preparation. But we have no writers whose minds are saturated, so to speak, with the spirit of the old world, or who draw from it any large share of their inspiration. Let a modern reader turn to Bacon's "Essays," or Ascham's "Schoolmaster," or Sir Philip Sydney's "Defence of Poesie," or Milton's "Comus," or Jeremy Taylor's "Holy Living and Dying," or Fuller's "Worthies," and he will see what it was to study the classics, when such a study was a reality, and furnished the chief food of a man's intellectual life. Let him then turn to the most accomplished of contemporary writers, to those in whose works the influence of classical study is most apparent, to Milman and Macaulay and Grote, to Bulwer and Thackeray, to Matthew Arnold, to Browning and Tennyson, and he will see what it is for such study to be an accomplishment and a luxury; adorning a literature, but not penetrating into its life.

These considerations are not urged as reasons for displacing the classics from their traditional supremacy in the curriculum of the higher education of the country. But they have a serious bearing on what has been termed "secondary" instruction, *i.e.*, the instruction of those persons who live by labour in trades, or in the lower professions, and who constitute what is commonly understood by the vague term "middle class." I do not say that classical scholarship would not be very valuable to this class, but simply that it is unattainable, and that if it is unattainable we ought not to waste the time and strength of boys in fruitless efforts to attain it.

I have no doubt that the poor and abortive teaching of what is called the "classics," comes, in far too many cases, to absolutely nothing; that it rather deadens than awakens thought, that it stimulates no literary appetite, and that it is not even indirectly helpful in enabling the pupil to write his own language with fluency and grace. And it will always be so, unless we learn to fashion our schemes of instruction with a clear view of their probable duration and of their ultimate purpose. If a youth is to stay at a public school till nineteen, and spend four years more at Oxford, there is good reason why he should begin with Latin; for he will probably carry the study far enough to obtain from it much of the intellectual fruit which the study of the ancient languages can give, however clumsy and formal may be his method of acquiring them. For him it is comparatively unnecessary to make a separate study of English grammar, for he will learn it in a reflex and indirect, but still most effective way, through Latin and Greek. But if a youth is to leave school at fourteen, the best linguistic discipline which is possible for him is to be had in the study of his own language. By diligent analysis, grammatical and logical, by exercises in paraphrase and composition, and by the careful and critical study of one book by some great English writer, he will learn more of the true significance of words, and of the structure and right use of language than

he could learn in any other way.* No one who is not aware of the great improvement of modern school-books in this department, and the special efforts which have been recently made by scholars to elucidate the English language, can form an adequate estimate of the valuable discipline which the grammar of our own language is capable of furnishing.

Here then is a grave problem which we may hope the inquiries of the new commission will help to solve: "What is the best and most fruitful form of discipline for scholars who are not likely to enter on a university course, or to prolong their school life beyond the age of fifteen? What curriculum can be devised, which even if abruptly terminated at that age, shall still be good and valuable as far as it goes, and serve as the means to a real and not an impracticable end?" The legitimate ends of school instruction are not hard to define. They include training for the eye and hand, as reading, writing, drawing; training for the reasoning faculty, as arithmetic and other science; training in the right use of speech, as grammar and composition; and knowledge of facts and things. Without desiring that the commissioners should use their authority to formalise the work of instruction, or interfere needlessly with the liberty of teachers and the wishes of parents, we may yet hope that they will not lose the opportunity of laying down some general principles respecting the true range of secondary instruction, and of showing that the theory of a "grammar school" or "classical academy" is inconsistent with those principles.

Such suggestion and guidance will, however, form but a small part of the commissioners' work. It is much easier to say what ought to be taught than to make adequate provision for teaching it; and the question will still remain—How can a good supply of well qualified teachers be secured? It is not difficult to form some estimate as to the class of persons into whose hands the education of a large portion of the middle classes has fallen. It is open to us all to read the advertisements which crowd the columns of the *Times* at Christmas and at Midsummer. We all know what sort of promises are held out in these advertisements—the excellent provision, the salubrious air, the accomplished masters, the scheme of study which includes all learning, human and divine, to say nothing of the maternal anxiety of the schoolmaster's wife, ever ready to be extended to the fortunate child whose parent or guardian can afford to pay from 18 to 30 guineas a year for these privileges. Perhaps some of us know too in what way these promises are often fulfilled—how often the schoolmaster is a mere trader, a lodginghouse-keeper, who is

* I must be understood to speak here of average teachers only, and of the methods best suited for general adoption. A really accomplished man with skill in teaching, and love for his work, may use what method he likes, and will find it efficacious. Such a man would probably prefer to teach English, even to beginners, through the medium of Latin. But in *his* hands, Sanscrit would serve the purpose quite as well.

fitted neither by nature or education for the serious business which he has undertaken. Now, in most civilised nations, this danger is averted by means of a law which forbids any person to set up as a teacher who has not given some evidence of his qualifications for the office. We in this country have a Medical Registration Act which makes it penal for any man to practice medicine or surgery who does not possess some certificate of competency.* An analogous measure—a Scholastic Registration Act—has been proposed ; which in like manner shall prevent the intrusion of the empiric or the quack into the teacher's profession. But there are difficulties here such as are not at first apparent. When Parliament undertook to deal with the medical profession, and said to its members "You must register your qualifications, and prove that they have been duly tested," there was no doubt at all as to what was meant by medical qualification. There were the Colleges of Physicians and of Surgeons, the Society of Apothecaries, the great medical schools, and the Universities, all of which held a recognised position, and were qualified either to give professional instruction or to guarantee that it had been attained. But in the present state of our educational machinery it would be premature and cruel to enact a similar law for schoolmasters and mistresses. For at present, if an Englishman desires honestly to devote himself to the business of school-keeping, there are no means accessible to him for obtaining instruction in the art or science of his profession. There is no university or college in England—not even the College of Preceptors—which gives a course of systematic instruction adapted to his special needs. Except, therefore, in the rare cases in which the teacher of a school possesses a university degree, the public have no security that he is fitted for his work, even in the matter of general acquirement; and as to his practical ability as a teacher, and knowledge of the principles of his profession, there is no institution in England which can either give him the needful training, or attest the fact that he possesses it.

It has been suggested that the College of Preceptors is well adapted to discharge this function. I wish to speak with all respect of this institution, which is doing useful work, and is likely, under its present management, to exercise increasing influence. But a society of gentlemen incorporated for the purpose of mutual certification, and for the defence of the professional interests of a class, must not be surprised if public confidence comes to them but slowly ; and before it is expedient to give any higher legal value to the certificates conferred by this institution, it will be necessary to inquire what is the precise kind of qualification which those certificates represent, and how far the privilege of membership, which, to judge from the frequent appearance in advertisements of the

* This is not quite correct. The Medical Act does not prevent an unregistered person practising, but provides a penalty if he hold himself out as being egistered.—Ed.

letters M.C.P., seems to be very widely enjoyed by private schoolmasters, has been obtained either by attending lectures or by passing examinations. I cannot doubt that the College of Preceptors is fully entitled to recognition as *one* of the licensing bodies, in the event of the enactment of a law for scholastic registration; but it has at present established no claim for a monopoly of this privilege. And even if the privilege were granted, the value of the college diplomas in the market would depend entirely on the manner in which they were obtained, and on the degree of scholarship or of professional skill, which those who conferred them had actually put to the proof.

I believe that we have ready to our hand other machinery, which needs only a little extension and adaptation, to serve our purpose well. The training colleges for elementary teachers are the only institutions in this country in which systematic instruction is given in what the Germans call "pädagogik," or the science of education. They have been remarkably successful. The teachers sent out from them have been taught what to teach, and how to teach, and they have revolutionised the primary instruction of the country. Their staff of officers consists of men who have made the principles and methods of teaching their special study. They are annually visited and examined, and a detailed report of their condition is submitted to Parliament. Yet they are poor, and are sustained with difficulty. I believe that the managers of these institutions are beginning to fear that they shall not be able long to keep up so able and efficient a staff as heretofore, considering the recent regulations which limit the work to be done, and the means of paying for it. Now why should not these institutions be at once strengthened and further utilised? I may not here go into the details of the plan, which has long been in my mind, but I may mention in outline one or two of its leading features. They are these:—

I. A good middle-class school might be established in connection with every training college. The present staff of officers would be able, if not to give all the instruction, at least to direct and superintend it, and they are in many respects peculiarly fitted to do the work well. Such a school would of course need no government grants. The fees arising from it would add to the resources of the training colleges, and enable them to retain their best men. A school of this kind should be a model school for secondary instruction, and might fulfil for students of another class the same purposes which are now fulfilled so well by the elementary practising schools already attached to the training colleges.

II. The next step would be the opening of the doors of the training colleges to others than the present class of elementary teachers. Under certain restrictions, any persons desiring to become qualified as teachers might be admitted to the courses of lectures on teaching, or on other subjects taught in the college, might observe the methods pursued in the model school, and receive systematic discipline in actual teaching under supervision. This class of students would generally be non-resident; they would pay reasonable fees according

to the number of classes they attended, and to the length of their training, and no government grant in any form would be claimable by the college authorities in their behalf.

III. All students of this class, after receiving from the College a certificate of diligent attendance, might be eligible, with the other students, at the annual examination for certificates of merit. The Committee of Council would conduct this examination, and would award the professional diploma, and to this extent, and this extent only, would it be necessary to impose new labour or expense upon the State.

It is manifest that we waste a good deal of power in this country, by so completely separating the apparatus for elementary teaching from that employed in secondary or higher instruction. In France, in Germany, and in Italy, all the parts of the educational system are interwoven, and strengthen one another. The normal schools are available for teachers of all kinds, and are connected with the universities, and under the supervision of their authorities.

It seems to me that the expediency of such a plan is a question of pressing importance just now with us, and one to which a Royal Commission might address itself with great advantage. To give the training colleges new work to do, and new resources for doing it, would enable them to do their present work still better: while to offer to the secondary schoolmaster advantages from which he is debarred, but which the teachers of primary schools can command, would be to confer upon him a great boon—a boon which can only be estimated by those who will compare the modern teacher of the village school with his predecessor of thirty years ago. I am sure that the man who possessed such a certificate would have a great advantage in the market over other competitors, if he desired to set up a middle-class school. Moreover it must be remembered that without some such wide and general provision as this, a scholastic register act would be a nullity. You have no right to insist on the possession of qualifications, unless you can show where those qualifications are to be gained, nor unless you are able to prescribe with some approach to definiteness, what the qualifications are, and how they are to be measured.

Some have thought that the difficulty to which I have referred might be met in another way. The universities of Oxford and Cambridge, it is urged, might do for the schoolmaster what they have done with so much advantage for the pupils of middle-class schools. They might institute local examinations for teachers as well as pupils, and award certificates, which, though inferior in value to degrees in arts, would yet attest a man's competency to keep a school. There is something plausible in this proposal; but it must be remembered that though the functionaries whom the universities would appoint are excellently qualified to test scholastic attainments, they are not in any way qualified to test the special knowledge of a schoolmaster as such. There is no reason to suppose that either the science of education or the

practical art of school management has ever engaged the attention of the university authorities, or that their mathematical and literary examiners are better qualified to give diplomas of teaching ability, than of medical or legal qualification.

Another topic of serious inquiry is suggested by the prevalence of the modern system of examinations. It is obvious that schools of the better class have been very largely influenced by the recent action of the universities, and by the competitive examinations for admission into various departments of the Civil Service; and it will be very interesting to inquire what has been the extent and value of the influence thus exerted. The greatest effect is that produced by the local examinations of the older universities. Besides these, the matriculation examination of the university of London will be found to have told with considerable force on the education given in the higher class of schools. For the more ambitious schoolmasters seem to regard this examination as conferring a sort of minor degree, and they encourage their best pupils, even though they are not intending to pursue an academical course, to present themselves for matriculation. This is a purpose which can hardly have been contemplated by the Senate, who, of course, regard matriculation relatively to the work of the University as a *terminus à quo* and not as a *terminus ad quem*. But it happens that the examination is exceedingly well adapted to test the soundness of that general knowledge which a well-instructed youth of sixteen ought to possess, and success in this examination is much coveted by teachers for their scholars, as a distinction somewhat higher than the Oxford A.A., or the corresponding Senior Certificate at Cambridge. There can be little doubt that the stimulus offered by these and other examinations has been extensively felt, that the examinations have encouraged a wider and more accurate scholarship, and that the examination-papers have done much to shape the curriculum, and give definiteness to the teaching in many schools. All this we may hope to find fairly recognised. But I think many of us will be thankful to the commissioners if they will ascertain for us at what price we have bought these advantages, whether the distinctions won by the four or five per cent. of the scholars who have gone up to these examinations, have been gained at the expense of the ninety-five per cent. who have *not* entered the competition; how far, in fact, the general efficiency of the schools as a whole, has been affected by the concentration of the efforts and ambition of the master upon his more promising scholars.

The truth is, that if you want to test the worth of a system of education, you must not merely examine its picked scholars, but you should inspect the schools from which they come. Mr. Matthew Arnold, in his lucid and forcible way, has shown the advantages of such a plan, difficult as it would be to carry it out. But this question of the opening of the middle-class schools to periodical inspection by qualified and responsible men will force itself on the

attention of the commissioners, and will no doubt receive the consideration it deserves.

To recapitulate, then: here are some of the questions which lie before us, and which await an answer. "What is the condition of our middle-class schools, both for boys and girls? Can it be improved? And if so, how? Shall it be by establishing new schools for counties or large districts, and so driving the inferior class of private adventurers out of the field? If so, how should these establishments be organised, whence are the funds to come, and under what guidance or control should they be placed? And how can a good supply of well-qualified teachers be maintained? Should it be by making it penal to set up a school, or serve as a schoolmaster, without qualification; and if so, what should be the standard of qualification? Is there any chance that training colleges for middle-class schoolmasters could be established, or would succeed if established? If not, would it be possible, as an experiment, to expand and utilise the existing training colleges? And as to the subject-matter of the teaching in the majority of academies, seminaries, and 'educational homes'—Is it what it ought to be? Cannot a better system be devised? Are we prepared to look in the face the traditional superstition about the classics, and to see what actually comes of it in the schools which do not even profess to train for the universities? Finally, what are the surest and wisest ways of testing the work of schools, and keeping up their vital force from year to year? Is it by examination of the picked scholars, or of the whole schools, or of both together? And if so, who ought to be the examiners, and by whom should they be appointed? Will the increased action of the universities in this department excite less jealousy than the action of the central government, and, if so, will it serve the purpose better? And more than all, how can legislative and centralised action in any form be most wisely reconciled with that spirit of independence, that faith in free trade, and that habitual sensitiveness on the point of Government interference between parent and child and teacher, which are among the characteristic instincts of Englishmen, and which a wise statesman would not destroy, even if he could?"

Such are some of the problems which await solution at the hands of Her Majesty's Commissioners. Their task is weighty and serious, and in discharging it well they will confer an enormous benefit on the whole community. This Association took a conspicuous and active part in urging the Government to establish such a commission. It seems to me, therefore, that it is specially incumbent upon its members to think over the whole subject, and to form some opinions on it, in order that if the occasion arises, they may lend to the inquiries of the commission all the aid which it may be in their power to give.

On Secondary Instruction, as relating to Girls.
By EMILY DAVIES.

IN the great controversy, which having been begun by the debates on the Report of the Public Schools' Commission, is now extending itself over almost the whole department of secondary instruction, there is an omission which seems to call for remark. Throughout the discussion, voluminous as it has been, the question has hitherto been treated exclusively in reference to boys, it having been tacitly assumed that male education only is a matter of concern to the general community. This feature is the more remarkable, inasmuch as it is peculiar to the present agitation. In the effort made some years ago for the improvement of primary education, ignorant boys and ignorant girls were recognised as having similar needs and similar claims. National and British Schools for girls are inspected, mistresses are trained, female pupil-teachers are apprenticed, and speaking generally, the education of the daughters of the labouring classes is as carefully watched over as that of their sons. Why is the case altered when we advance a few steps higher in the social scale? With regard to the public schools, the reason is obvious enough. As there are no Etons for girls in existence, they could not be made the subject of investigation. Probably the sisters of public school boys are, for the most part, taught by governesses at home. Their education is therefore clearly beyond the scope of a commission of inquiry, and though it does not follow that it is a matter in which the nation has no interest, it is natural enough that it should not appear in the discussion called forth by the Commissioners' Report. But this consideration does not apply to the daughters of the middle-class, and it is difficult to understand why their early training should be regarded as a matter of less importance than that of their brothers. That it is so regarded appears to be implied by the almost total silence of the thinkers and writers to whom the nation looks for guidance. It is needless to bring proofs of what no one will deny. It is a simple fact, that in the mass of speeches, articles, reviews, pamphlets and volumes which have lately been before the public on the subject of secondary instruction for boys, there is scarcely so much as a passing allusion to that of girls. This side of the question has been, by general consent, completely ignored.

There is no reason for attributing this silence to ungenerous motives. It no doubt arises in a great degree from a sort of inadvertence. Public writers are occupied with the busy world around them, in which men only are to be seen, and it is perhaps not much to be wondered at, if they think only of training the boys, who are hereafter to do the more conspicuous part of the world's work. Some, and those the men most worth listening to, are unwilling to speak of what they imperfectly know, and it is difficult for them to know much about girls or women. When they speak of boys, they have at any rate their own experience to go upon, and it is not unnatural that

they should by preference confine themselves to that side of the subject of which they have personal cognisance. Others are no doubt insensibly influenced by the view of education which regards it merely as a means of making a living. It has been remarked that "a great part of the confusion in which the question of education is involved, arises from the division of public feeling as to the value of knowledge." There are many persons who value it only as a weapon to be used in the struggle for material existence, and as women are, theoretically, never required to fight, it may seem superfluous to supply them with arms.

Women, on their part, are largely responsible for the general carelessness. It could scarcely be expected that they should very keenly appreciate advantages of which they have had no experience, and they are generally ready enough to profess themselves perfectly satisfied with things as they are, and to echo doubts as to whether "so much education is necessary for girls." Some, who are conscious of their own deficiencies, are afraid that the manifestation of a desire to help others may be mistaken for an assumption of great enlightenment in themselves. Others, who by unusual energy and perseverance have succeeded in gaining knowledge and the power that it brings with it, are, by their very superiority, cut off from the multitude. They look down from their heights, with little sympathy, on the mass of women tamely giving way before difficulties which they have known how to overcome. Others again shrink from prominence in any cause whatever; their dread of publicity is so overpowering that they would rather see a whole generation drowning before their eyes in ignorance and sloth, than run the slighest risk of being spoken of as having taken part in the rescue. I should be sorry to speak of this reserve with anything like disrespect; I believe it is seldom absent from the finest natures. But I submit that it is one of the duties imposed upon the women of this generation to speak out, careless of the cost, on those questions of which they can most fitly judge. Silence and inaction are not justified by any of the reasons here suggested; for whatever may be the causes—or the excuses—the result is the same. The impression is conveyed to the public mind that the education of girls is an affair of very little consequence—that it is, in fact, one of the things which may safely and properly be left to take care of themselves. It is no wonder that so agreeable an untruth should meet with ready acceptance.

In venturing to raise a protest against both the doctrine itself and the policy which it involves, I do not propose to enter upon an inquiry into the condition of girls' schools, and the systems of teaching pursued. It is one of the results of the prevailing indifference, that nobody knows enough of the interior of girls' schools to speak with authority about them. The data for forming a general conclusion are not within the reach of any individual. But there is a method by which we may test the quality of the schools,—we can look at the quality of the thing produced. Anybody, or at least any woman, may know what girls are after leaving school, and we may

fairly judge of the process by its results, making allowance, of course, for extenuating circumstances in the shape of vitiating home influences.*

I ask then, what are girls worth when their education is finished? What are they good for? Are they in vigorous health of mind and body? What is there that they care about? How are their lives filled up? What have they to talk about? What do they read? I am speaking, let it be remembered, not of children, but of grown-up women. Does anybody care for their opinions on any but the most trivial matters? Have they a thought beyond the circle of petty cares?

To all these questions favourable answers might be returned as regards many exceptional women. But if we look at the great mass, we shall find much to be ashamed of. On all sides there is evidence that, as regards intelligence and good sense, English women of the middle class are held in small esteem. "A woman's reason" means, in popular phrase, no reason at all. A man who lets it be known that he consults his wife, endangers his own reputation for sense. A habit of exaggeration, closely verging upon untruthfulness, is a recognised feminine characteristic. Newspaper writers, expressing the prevailing sentiment, assume towards women an indulgent air which is far from flattering, giving them credit for plenty of good intentions, but very little capacity, and the tone in which many ladies speak of the capabilities of women is still more depreciatory than that adopted by men. No doubt this is partly exaggerated and unjust. All *classes*, as such, are now and then maligned, and so long as women are unfortunately regarded as a class, they will come in for their share of ridicule. But without taking the current raillery too much *au sérieux*, it will be admitted that the popular estimate of a woman's mental worth is somewhat low.

This condition of mental weakness might not be looked upon as so very grave a misfortune, if it was made up for by bodily strength. We are learning more and more the importance of physical health to the life of a nation, and a training which should produce a thoroughly sound physique, even at the expense of feebleness of mind, would have much to recommend it. But women are not healthy. It is a rare thing to meet with a lady, of any age, who does not suffer from headaches, languor, hysteria, or some ailment showing a want of stamina. Shut out, in towns especially, from wholesome sources of excitement, they either resort to such as are unwholesome, or else fall into indolent habits, losing strength from want of exercise, and constantly requiring change of air and scene, as a substitute for the healthy stimulus of regular exertion. Dulness is not healthy, and the lives of ladies are, it must be confessed, exceedingly dull. Men recal pictures of homely households in earlier times, and imagine

* In fairness to the schools it ought perhaps to be remarked that they are moulded by public opinion. Many school-mistresses supply what society demands, very much against their own judgment and inclination.

that such things are, or might be, going on still. They forget the prosaic fact that the continually increasing use of all sorts of machinery for the supply of household wants, has completely altered the aspect of our domestic interiors. The rounded life of our grandmothers, full of interest and variety and usefulness, is a thing of the past. Some of us may look back upon it with regret, but it can never be recalled. How can women, living in towns where they can buy almost every article in domestic use cheaper than they could make it, unless they reckon their time and eyesight as worth nothing at all, work with spirit at tasks which are obviously futile? It is not in human nature. It is not in women's nature even, mysteriously inconsequent as that nature is believed to be. I may seem to be wandering from the point, but it will be seen, I hope, that if the old avocations, involving abundant exercise of all the faculties, are being taken away, it becomes necessary to supply their place by new interests and occupations. A hundred years ago, women might know little of history and geography, and nothing at all of any language but their own—they might be careless of what was going on in the outer world—ignorant of science and of art—but their minds were not therefore necessarily inactive. Circumstances provided a discipline which is now wholly wanting, and which needs to be supplied by wider and deeper cultivation. I dwell upon this point because I am sure that busy people, and especially busy men, have a very faint and feeble conception of what dulness is. They overtax their own brains, and by way of compensation they have invented the doctrine of vicarious rest, according to which men are justified in wearing themselves out so long as women can be kept in a state of wholesome rust. We hear a great deal of the disastrous effects which would follow if women were to abandon the habits of elegant leisure by which the balance is supposed to be redressed. The *otium* SINE *dignitate* of drawing-rooms presents itself to men's minds in enviable contrast with the bustle and turmoil of an active career. They "hearken what the inner spirit sings, There is no joy but calm." And they think dulness is calm. If they had ever tried what it is to be a young lady, they would know better.

The system tells in different ways, according to the individual character. Some girls fret and pine under it; others, satisfying their souls with husks, are content to idle about from morning till night, acquiring, as has been already said, indolent and desultory habits, hard to break through when in later life the demand for steady methodical exertion comes upon them. Some take to works of charity, doing some harm, and no doubt also some good. Their usefulness is at any rate seriously lessened by the want of the cultivated judgment to guide and control benevolent impulse. Some, I gladly admit, lead noble lives, filling their leisure with worthy pursuits, and in spite of difficulties, tracing out for themselves a useful and happy career.

It may seem to be entering upon somewhat low ground to speak of women's talk, but it may not be out of place, seeing that, as things

are, it forms a chief part of their business. And what do ladies talk about at morning calls and evening parties? Children, servants, dress, and summer tours—all very good subjects in themselves, but so treated, partly through sheer ignorance, that as the conversation advances, tedium grows, till at last all signs of intelligence disappear, and the weary countenances too faithfully reveal the vacancy within. Of literature, women of the middle class know next to nothing. I am not speaking of religious literature, which is extensively read by some women, and to which they owe much. I speak of general literature, and of ordinary women, whose reading is for the most part confined to novels, and of novels not the best. The catalogue of a bookseller's circulating library, in which second-rate fiction largely preponderates, is a fair criterion of the range and the taste of middle-class lady readers. Newspapers are scarcely supposed to be read by women at all. When the *Times* is offered to a lady, the sheet containing the advertisements, and the births, deaths, and marriages, is considerately selected.

This almost complete mental blankness being the ordinary condition of women, it is not to be wondered at that their opinions, when they happen to have any, are not much respected. In those cases, indeed, where natural sagacity is a sufficient guide, women often form just conclusions, but manifestly, wherever a knowledge of facts is required, they are almost sure to be at fault. And very few questions of any importance can be decided without such knowledge. Of what is going on in the world women know little and care less. When political or social questions are forced upon their notice, they commonly judge them from some purely personal point of view. Right and wrong are elements which scarcely enter into the calculation.

In taking this melancholy view of the middle-class female mind, I am aware that I lay myself open to the attacks of two classes of objectors. By one class the picture will be condemned as a caricature; by the other it will be accepted as faithful, but it will be maintained that the defects pointed out are traceable, not to want of education, but to the natural inferiority of the female intellect. To the first I can only reply that I speak from personal knowledge, supported by the experience of other observers, and that, for all that has been said, I could, if space permitted, adduce abundant evidence. The second objection is not easy to meet, in the paucity of material for proof on either side. I believe I may say, however, on behalf of the advocates of female education, that any objector is welcome to assert anything he likes about the inferiority of the female intellect, if only he does not rate it so low as to be incapable of improvement by cultivation. We are not encumbered by theories about equality or inequality of mental power in the sexes. All we claim is that the intelligence of women, be it great or small, shall have full and free development. And we claim it not specially in the interest of women, but as essential to the growth of the human race. This is not the place to discuss whether women have, or ought to have, any

other than merely domestic relations. I take the commonly received theory that except as wives, mothers, daughters or sisters, women have no *raison d'être* at all; and on this neutral ground I urge the impolicy of neglecting female education. For now, more than ever before, the mutual influence of the sexes makes it impossible to serve one without the other. Of this fact, often enough asserted in theory though little regarded in practice, the revelations of the Royal Commission have furnished a new and striking demonstration. In one of the recent debates, it was pointed out by Mr. Gladstone that the idleness and ignorance of public school boys are largely attributable to the over-indulgent atmosphere of the homes in which they are brought up, and the Commissioners' Report contains repeated testimonies to the same effect. Mr. Matthew Arnold says of our highest class that its culture has declined. Young men at the universities exhibit "a slackness," "a sleep of the mind," which he traces to "a torpor of intellectual life, a dearth of ideas, an indifference to fine culture or disbelief in its necessity, spreading through the bulk of our highest class and influencing its rising generation. * * * * Never," he says, "in all its history, has our whole highest class shown such zeal for enjoying life, for amusing itself." Is this surprising? Is it not precisely what might have been expected in a society which, for at least one generation, has been content to bring up its girls to be mere elegant triflers? Is it not true that to amuse themselves and other people is the great object in life of women of the non-working classes, and is it possible that their sedulous devotion to this one object can fail to react upon the men with whom they associate? Who gives the tone to the lax and luxurious homes of the wealthy? Who teaches the boys that hard work is foolish self-torture, that an easy life is more to be desired than the fine gold of intellectual attainment? Not their fathers, for though they too may be led away by the prevailing passion for play, they have had a nobler ideal set before them. What is the ideal presented to a young girl? Is it anything higher than to be amiable, inoffensive, always ready to give pleasure and to be pleased? Could anything be more stupefying than such a conception of the purposes of existence? And is it likely that, constituted as society now is, young men will escape the snare which has been spread for their sisters?

In a lower social grade, the temptations assume a more sordid character. We get the trifling without the elegance. Mr. Arnold has told us in the most eloquent and convincing language, what the middle class wants. Its virtues and its defects, what it has and what it needs, have been held up to view, and those whose knowledge of that great class is most intimate will most promptly recognise the admirable faithfulness of the portrait. We are told that it is "traversed by a strong intellectual ferment,"—that it has "real mental ardour, real curiosity." Whether it will attain to "a high commanding pitch of culture and intelligence," depends on "the sensibility which it has for perfection, on its power to transform itself." And "in its public action this class has hitherto shown only the

power and disposition to affirm itself, not at all the power and disposition to transform itself." Here again, we are reaping what our fathers have sown. A young man of the middle class, who enters upon life with generous instincts and aspirations after perfection, is apt gradually to lose them. He becomes day by day less public-spirited, more engrossed by selfish aims. The more home-loving he is, the more likely is this to be the case. In his best moments, where is he to look for sympathy? His highest thoughts and feelings cannot be shared by those nearest and dearest to him. Any expression of them is likely to be met by a blank, uncomprehending stare. If there is any question of a small sacrifice to be made for the good of his town or parish, he is advised against it. That his first duty is to think of his children, or, in other words, always to make the aggrandisement of his own family his primary consideration, is a maxim about which his wife feels not the slightest doubt, and which she never fails to impress upon him. In the home circle, the conversation is inevitably restricted to petty subjects. The master of the house may discourse upon politics, or literature, or any other topic that may interest him, but there can be no intelligent response, no interchange of thought, no pleasant discussion of things worth talking about. He may lay down the law on matters of which he knows nothing whatever, betraying the grossest ignorance of elementary facts, in full confidence that his conclusions, whether true or false, will be accepted with equal indifference. He will learn unconsciously, but very surely, that the great thing for him to do is to stick to his business, think of nothing else, talk of nothing else, aspire after nothing else. Making money and getting on in the world by means of it, are things that his wife and his mother and his daughters can understand and care for. They know all about the advantages of having a carriage and servants, and "a position," and plenty of money to do what they like with. If he wants to please them, the way is plain. It may not be the way he would have chosen. He may have had unselfish impulses, some "aptitude for ideas," some longings after a nobler career. But a fire which for fuel is perpetually fed with cold water, soon dies out. The man who was teachable, impressible, growing,—hardens into the mere man of business, worldly-minded, narrow-hearted, self-satisfied. I do not mean this statement to be taken in a universal sense. Of course it is sometimes the other way. The wife is cultivated and aspiring, and the husband drags her down. But I believe I have given a tolerably accurate account of the tendencies in the great mass of English homes of the middle class.

Why should this unsatisfactory state of things be allowed to continue? Why should not our English homes be animated by a spirit of truth and of sacrifice—pervaded by an atmosphere of light and warmth in which all high thoughts and generous impulses should live and grow, all mean and selfish ends be, by common consent, disowned and utterly renounced? Why might not the family circle be a place where "example teacheth, company comforteth, emulation

quickeneth"—our daily domestic intercourse like iron sharpening iron, mutually kindling, and stimulating to noble thoughts and deeds? What a change would then come over the whole aspect of our national life! What problems would be solved, what terrible enigmas disappear! How little need should we then have of philanthropic schemes for elevating the poor! How naturally would they share in all social reforms, how inevitably would they be refined and civilised by the insensible influence—the best of all influences—of the employing class, whose ideas, unconsciously communicated to their subordinates, gradually leaven all the classes below them. Masters and mistresses reveal in their everyday life in what their ideal of blessedness consists, and that ideal becomes, with some modifications, that of the humbler homes of working men and women. I say with modifications, because working men are through their mutual association subject to counteracting influences, and it is chiefly in so far as that of wives and mothers prevails over others scarcely less strong, that the ideas of the employing class penetrate and govern. That through this medium they do act, inconspicuously but most powerfully, on the labouring class, will probably be admitted. It cannot, I am afraid, with truth be denied, that the principle, "Every man for himself"—or, to say the least, every family and order for itself—of which mistresses complain so loudly when it is adopted by servants, but upon which they too commonly rule their own households, is by their example extended into circles far beyond the range of their direct and conscious influence. The want of hearty sympathy, not only between the classes which are divided by broad and easily recognised distinctions, but between those which are separated by lines so shadowy that, looked at from above or below, they are scarcely discernible—is one of the most serious impediments to social progress, and it is one which a better and more widely diffused culture might do much to remove. Not, indeed, that the education of youth, even taking the word in its deepest sense, is to be regarded as the only, or even the chief, agency for the improvement of society; but it happens to be the point towards which attention is at this moment directed. We are taught to expect great things from a reform in secondary instruction, and this being so, it is surely reasonable to ask that such reforms as may be possible shall be on the widest basis, not omitting any really important section of society.

It will be understood, I hope, that those who make this appeal on behalf of girls, are not proposing the introduction or the enforcement of any particular scheme of instruction. It may be that the curriculum most commonly pursued, or at least professed, is as good as any that is likely to be devised, and that we only want better methods and more encouragement. On questions of detail we are not in the least inclined to dogmatise. It would be rash indeed to fix upon any particular course of instruction as absolutely the best for girls, while as to that of boys, on which so much more thought has been bestowed, we are still in a state of confusion and bewilder-

ment. There seems to be as yet no body of opinion formed out of the floating mass, unanimous enough to be authoritative and competent to pronounce upon what branches of study are in themselves most worthy, what are most useful as educational instruments, what proportion of time should be allotted to each, and the many other complicated questions which must be answered before a perfect scheme of education can be produced. When that happy discovery shall at last have been made, it will probably be found also that the same course is, in the main, the best for both boys and girls, the object being substantially the same, that of awakening and strengthening and adorning the human spirit. That this great work should at least be well begun during the period allotted to secondary instruction, is especially necessary in the case of women, because with this first stage their education ends. I do not mean, of course, that a girl necessarily lays aside all study on leaving school, any more than a man does on taking his degree, but that the end of the school course is the same kind of educational terminus to a woman that graduation is to a man. When a girl leaves school, her strictly professional studies assume a greater prominence. In using the word professional, I do not refer to any trade or business, but to the profession which absorbs the great majority of women, that of marriage. For this calling, some technical preparation is required. The amount cannot be great, as under existing social arrangements, a thorough acquaintance with needle-work and cookery—the very easiest of arts—includes I believe all the special knowledge required by the mistress of a household. But setting aside the question, whether it is desirable that the merely professional training should begin so early—"the second and finishing stage of a liberal education" being altogether omitted—it seems obvious enough, that if regular, methodical instruction is to cease at the age of eighteen, it is the more imperative that the culture, up to that period, should be wide and deep and humane in the highest possible degree. A man has some chance of making up at the university the deficiencies of his school training; or if he passes direct from school to business, there is a possibility that he may find in his daily work something of the mental and moral discipline that he needs. But a girl who leaves school unawakened, is not likely to be roused from her lethargy by anything in her home life. The dissipation to which, in the absence of any spur to wholesome activity, so many girls give themselves up, completes the deadening process begun at school.

I have endeavoured to set forth, very imperfectly, but at least without exaggeration, some of the reasons for devoting to this subject more attention than has hitherto been bestowed upon it. Once again I would venture to urge, with the utmost insistance, that it is not a "woman's question." Let me entreat thinking men to dismiss from their minds the belief, that this is a thing with which they have no concern. They cannot help exerting a most serious influence upon it. Silence sometimes teaches more elo-

quently than words, and while they refrain from giving encouragement, their apparent indifference damps and chills. The matter is in their hands, whether they choose it or not. So long as they thrust it aside, it will not come before the mind of the nation as worthy of serious thought. The Scriptural maxim, "That the soul be without knowledge is not good" will still be interpreted as applying to the souls of men only. We want to have the question settled. If the proposition, often enough vaguely affirmed, that the true greatness of a nation depends as much on its women as on its men, be anything more than a rhetorical flourish, let it be acted upon. Let it be accepted as a fact, if it be a fact, and if not, let it be contradicted and disproved, that in so far as education is worth anything at all, it is just as desirable for girls as it is for boys. We have little fear but that when once the question gets its fair share of consideration, something, and probably the right thing, will be done. Some efforts have indeed already been made, and so far as they have gone the results have been encouraging. In London, the ladies' colleges, in which men of the highest ability take part, have done much, not only within their own walls but by their influence over other teachers, to raise the standard and improve the tone of education generally. In the country, we have the school at Chantry, near Frome, founded in 1857 by Mr. Allen and Mr. Fussell—the training-school for governesses at Bolham, in Devonshire, where "teaching to teach" is made a prominent study—Miss Clough's school at Ambleside—and others of greater or less importance, all steps in the right direction. But these isolated attempts require to be followed up. The provision of secondary instruction for girls is impeded by the usual hindrance, the want of funds. It is found very difficult to supply really good teaching on such terms as middle-class parents are able and willing to pay, and there is scarcely any assistance forthcoming in the shape of old endowments. The 547 ancient grammar schools scattered throughout England are, as is well known, almost entirely filled by boys. The other endowed schools, of which there are about 2,000, take in a much larger proportion of girls, but they are of the poorer class. The endowed schools which are attended by pupils of the upper and middle classes do not include girls. It may be a question for consideration whether some of these endowments might not, without much divergence from the intentions of the original donors, be used for the foundation of a few first-rate girls' schools, or in some other way be made available for the advancement of female education. At any rate, wherever a new institution, such for instance as the Albert Memorial School, in Suffolk, is being founded, it would seem reasonable to make a fair division of the funds, of course taking into consideration any special local circumstances. Again, where we have a St Nicolas' College, or a first-rate proprietary school, for boys, let there be some corresponding foundation for girls. Let schemes of examination and inspection designed to raise the character of boys' schools be extended to girls also. In a word, let female education be

encouraged—let it be understood that the public really cares whether the work is done well or ill—and the minor practical questions will ere long find for themselves a satisfactory solution.

On the Proposed Examination of Girls of the Professional and Middle Classes. By the Rev. J. P. Norris.

Our attention has been lately called to this subject by a circular of the London Committee formed to promote the admission of girls to the university local examinations. The formation of this committee for such a purpose and the general attention which the subject has received of late in our magazines and journals, are significant facts indicating a want, and (what is more) the consciousness of that want on the part of those whom it most concerns. The higher education of girls is not what it ought to be; and women are themselves convinced of it. Nor need this backwardness of girls' education excite surprise. It was only in the last generation that England began to be ashamed of the dead low water in which, for a whole century or more, education of all kinds had been stranded. Slowly the tide of public opinion was seen to rise. The first to be floated into more intellectual life were the two ancient universities. Twenty years later our great public schools were launched on a career of reform not yet completed. During another twenty years the rising flood swept over the parishes of the land, and our elementary day-schools were reorganised. Quite lately the tidal wave of improvement has been trying to force its way into the great Mediterranean of middle-class schools so long closed to it. What wonder if now at length, and not till now, we see it rippling into the narrow creeks and shallow bays in which the education of our sisters and daughters has, wisely or unwisely, been hitherto secluded?

It is doubtless to the privacy and retirement of girls' education that its comparative backwardness is to be ascribed. Wherever circumstances have brought it forward into the light of day, it has quickly appropriated and profited by all the best influences of the age. The measure of success which has attended the classes at Queen's College in Harley Street, and the Ladies' College in Bedford Square; and still more strikingly the efficiency of those highly organised institutions—the like of which no other nation can as yet show—our training colleges for schoolmistresses, afford evidence how capable of improvement is this feminine side of national education.

Let any one who wishes to be convinced of the inferiority of the private education now for the most part given to our girls, especially those of the middle classes, visit these training colleges, and contrast what he will there find with what goes on in his own schoolroom at home, or in the boarding school to which he may have sent his daughters. In the training colleges he finds all the methods and

appliances which the latest experience has suggested ; an apparatus and a literature which their own intelligent requirements may be said to have created ; animated collective lectures alternated with silent study ; oral instruction with written reproduction ; a staff of teachers who have not only much mental cultivation, but also professional skill in developing the intelligence of those whom they teach ; and, above all, the results of this teaching frequently tested and fixed by a searching and thorough-going system of examination.

It may be very safely asserted, and without any imputation of blame when all the circumstances are taken into account, that in our own daughters' schoolrooms or boarding schools we should find little or nothing of all this. We should find highly accomplished most painstaking governesses ; here and there an apt pupil advancing rapidly under their care. But, as a rule, a very small amount of professional skill, an inferior set of schoolbooks, a vast deal of dry uninteresting task-work, rules put into the memory with no explanation of their principles, no system of examination worthy of the name ; a very false estimate of the relative value of the several kinds of acquirement, a reference to effect much more than to solid worth ; a tendency to fill or adorn rather than to strengthen the mind. Many of our best governesses would be among the first to confess the truth of this contrast. How should they, with their limited sphere of opportunities, compete with those professionally-trained teachers ? How few of our governesses—how few of the teachers in our girls' boarding schools—have had any kind of specific training for their work ! And if more of them had it how very few parents would value them one whit the more on that account ! Here, in truth, in the parent far more than in the teacher, lies the blame. In any reform there is much more hope of having the teachers than of having the parents on our side.

How, then, are we to reach the parents ? How are we to open their eyes generally to the worthlessness of mere accomplishment as a means of mental training ? It is to be done in three ways :—first by the discussion of the subject in such meetings as this, and in our periodical literature ; secondly and chiefly, by a judicious and very carefully organised system of examination, conducted by some body of examiners whose reports will at once carry weight and authority ; and lastly, by the silent but surely progressive influence of example.

With regard to the first—the public discussion of the subject ; where the matter itself is so delicate, and where the sensibilities of the public are naturally so susceptible, it is most important that it should be treated simply, modestly, and practically ; any declamation, or mere theory, or admixture of what may be called ulterior matter, will only damage the cause. An essay or an address that began with a comparison of the intellectual powers, or of the social status of men and women respectively, would do nothing but harm ; would set all the more sensible of the public dead against us.

Whereas a writer or speaker who fastened on some particular blot—on arithmetic, for instance, in which it is admitted on all hands that girls are very defectively instructed—and proceeded to teach us how to mend the defect, would do great good, would be far more likely to arrest and conciliate the attention of parents, and so lead on to further reform.

Some, however, there are who speak with a weight of authority on this subject that none will venture to gainsay. All sensible people will listen with deference, when a man like Professor Faraday tells us that the credulity which ascribes to supernatural influences the thaumaturgic tricks of table-turning, spirit-rapping, second sight, and the like, argues an amount of ignorance, and a confusion of thought, which would be ridiculous if they were not so deplorable. Parents will hearken with anxiety when men of the highest medical eminence—like the late Sir Benjamin Brodie—tell us that very much of the hysteria and hypochondria of women is due to the want of a more invigorating discipline of the mind in early life. Economists and philanthropists will admit the logic of our statistics, which reveal hundreds of thousands of women compelled to earn their livelihood at unfairest disadvantage, owing to the incompleteness and inaccuracy of their education. A homely proverb often goes further than all the reasoning in the world; and "A man is what a woman makes him," is a truth that might well (one would think) lead us to consider very seriously the quality of the education that we are giving to the mothers of the next generation.

In an age of free inquiry, and almost boundless mental activity, it behoves us to remember a fact which history most surely teaches, that the moral and spiritual progress of mankind has ever been the healthiest when mothers, wives, and sisters have been the intellectual companions of their sons, their husbands, and their brothers. Two such periods, notably, England has seen; the Elizabethan age, and the present. In both it was her good fortune to be governed by a woman of great intellectual power and statesmanlike training. Such example in such high place did not fail three hundred years ago, and is not now failing to stimulate the women of England. The age of Elizabeth produced Lady Jane Grey, whose knowledge of Greek so delighted the venerable Ascham; Sir Anthony Cook's four illustrious daughters, one, the mother of Bacon, another, the wife of Burleigh; that "subject of all verse, Sydney's sister, Pembroke's mother;" the blighted Mary of Scotland; the Killigrews, famous through three successive generations; and many others; a constellation of women such as we have rarely seen, who far more largely than is supposed influenced the destiny of this nation. Let us hope—we have already good ground to hope—that our present age will be similarly distinguished. But much has yet to be done to remove the unreasonable prejudices which a hundred and fifty years of indifference to woman's mental culture have ingrained in modern public opinion. And as was before said, the more quietly, and

modestly, and practically it is done, the surer and the more lasting will be the progress.

And this brings us to the most important of the means of improvement above mentioned—a judicious and very carefully organised system of examinations for girls. And here, indeed, we touch the matter in the very quick; and the greatest caution will be needed. But, that examination of some kind must come first, is to any one conversant with education an evident necessity. Let us examine what is old before we introduce a single thing that is new. He who changes least is nearly always the best reformer. The true method is to bring forward what is good in the education actually going on; the bad will by that very process fall into the rear. Not only in a few training colleges here and there, but in very many of our best private boarding schools, and still more in the homes of our higher gentry, there is doubtless—it would be preposterous to question it—much real education of a very high order going on, which, if it were only made known and more widely diffused, would leave nothing to be desired. The misfortune is that those who have attained to this excellence as teachers of girls form no sort of commonwealth, give no currency to their valuable ideas, fail to influence the thousands of others. And these thousands of others, how are they to become aware of their comparative shortcomings? Or if they are aware, how are they to know where to apply for better counsel and example? Or how—for here, too, as in the lower trades, supply will follow demand—how are the parents to know the successful from the unsuccessful, the efficient from the inefficient teachers?

For all these several purposes, to inform public opinion, to attest good teachers, to make inferior teachers conscious of their inferiority, and show them exactly where they need improvement, to guide parents in the choice of schools or teachers, and above all, to give more fixedness of purpose to girls' studies, some scheme of independent periodic examination is unquestionably needed.

This last motive for providing such regular examinations for girls, namely to give a more definite aim to their reading, will be understood and appreciated by all who are engaged in the work of education. Dr. Arnold seems to have felt it. In 1841 he wrote to Sir John Coleridge as follows:—

"I feel quite as strongly as you do the extreme difficulty of giving to girls what really deserves the name of education intellectually. When ——— was young I used to teach her some Latin with her brothers, and that has been, I think, of real use to her; and she feels it now in reading and translating German, of which she does a great deal. But there is nothing for girls like the degree examination which concentrates one's reading so beautifully, and makes one master a certain number of books perfectly. * * * I do not see how we can supply sufficient encouragement for systematic and laborious reading, or how we can ensure many things being retained at once fully in the mind, when we are wholly without the machinery which we have for boys."

So wrote Dr. Arnold with curious appositeness to our subject twenty-four years ago.

Professor Plumptre (whose experience not only as one of our most eminent theological teachers, but also more especially as Dean and Director of the Queen's College in Harley Street, makes his opinion most valuable), said only last April :—

"Girls desire knowledge and self-knowledge for their own sakes. They wish their knowledge not to be hollow, superficial, or merely ornamental, but solid and substantial. This, I think, shows itself in the eagerness with which the experimental examination of December was welcomed by the girls. They have their examinations in their own colleges, and they enter very warmly into them. Even in colleges where the whole system of prizes has been from the very first excluded, I find that they enter into examinations with the utmost possible eagerness. But I feel that the work of teaching and the work of examining are best separated. There is a danger, when their teachers are also their examiners, lest their work should be too much limited to special lines of thought or reading. They need some external standard, something to satisfy them that they are not merely pleasing their own teachers: they desire that kind of knowledge which will satisfy an examiner who has no prejudices in their favour, and who is prepared to test the knowledge of those who have been taught in different places and by different teachers."

Of what sort then, should these examinations be ? First of all, for the reason given by Professor Plumptre, namely, for the girl's own satisfaction, and still more for the satisfaction of the teachers, of the parents, and of the public—in order that the examination may not only be—but may also be known to be—thoroughly honest and impartial, it is necessary that it be external to the schools. This is so self-evident that no more need be said on this point. The annual examinations, held by inspectors, of students in training colleges; those held by the Society of Arts, of students in mechanics' institutes and the like ; those held by the two universities, of boys in the professional and middle classes,—afford examples of the facility and absolute fairness with which a central board of examiners—thanks to our postal system—can hold simultaneous and identical examinations all over the country. On a given day, at a given hour, a set of printed questions on English grammar, for instance, is received at twenty or a hundred different places up and down the country. The questions are answered on paper in absolute silence, in the time specified, by a group of students in each of those twenty or hundred places ; the written answers are sealed up, without being read, and posted that same day to the examiner in London who set the questions ; and he, in the following week or fortnight, reads over the aggregate of papers, marking the merit of each answer. So with arithmetic, and so with each other subject ; each subject being committed to a separate examiner. This plan of examination might almost be called one of the great discoveries of our day. It unites three remarkable advantages : first, the greatest possible economy of labour ; second, absolute uniformity of standard ; and, third—and this especially recommends it as suitable for the purpose we are considering—all the security of the utmost publicity in one sense, combined with the very strictest privacy (if desired) in another sense. This last point needs perhaps further explanation. None of

the students need appear personally before the examiner; in their own school-room if they are school-girls; if not, then in some large room in a country town (as, for instance, the room where they meet for dancing lessons) they may answer the questions; the only requirement is that it be done under the eye of some person whose presence is a sufficient guarantee to the public that the work is done honestly —the clergyman of the parish, or a committee of ladies, for instance. They need not even if it be thought desirable, affix their names to their papers; a number—serving to identify the girl to her teachers and friends—is all that need be seen by the examiner or appear in the printed class list. But whether the girl's name appear or not, the name of her school, if it be at all a considerable one, should undoubtedly be appended. With these securities for the privacy, if desired, of each individual girl, the printed list might be circulated all over the country. Each girl and her friends would know where she stood in the order of merit, and therefore what the comparative worth of her instruction had been; and the public would observe what schools appeared to have most pupils occupying a high place.

So much for the kind of examination; there remains the more difficult question, Who should be the examiner? Before this question is answered there is a consideration of the highest importance which should be taken into account. Those who have not been much experienced in examinations may not be altogether aware how universally, how inevitably the examination re-acts on the studies of those examined. This necessary tendency of examination constitutes at once their great value and their great danger. Not only does the board of examiners tend to become a sort of council of reference for the guidance of the teachers, but the character of their questions one year will certainly influence the character of the studies during the next. If they happen to give prominence to any one branch of knowledge in their papers of questions, that branch of knowledge will receive increased attention on the part of the teachers; if they happen to omit, or to touch very slightly, any one subject of instruction, that subject will be neglected. The experience of the inspectors of schools, and the experience of the university local examiners, proves this unmistakably.

Now this inevitable tendency throws a very heavy responsibility upon those who shall undertake to conduct these examinations of girls. Whether they wish it or no, they will be influencing and modifying girls' education—at least girls' studies—all over the country. Before all other qualifications for the task, it behoves them to have the qualification of wisdom, of a right and healthy judgment in this matter of girls' education. "Shall we set a paper on Latin, or shall we not?" "How far shall we go in mathematics?" "Shall we propose an exercise in needlework?" "Shall we give higher marks to English grammar, or to drawing?" "How shall we test music?" "Of what sort shall our examination in religious knowledge be?" "What form shall our list of merit assume?" "Shall the standard be absolute or competitive?" Such

will be the kind of questions they will be expected to answer. To whom will the teachers, to whom will the nation entrust with confidence the determination of these problems?

It has been proposed to confide the examination to the boards who conduct the university local examinations. And when one considers the admirable way in which they are discharging their present task, one can hardly be surprised at the suggestion.

But, assuming for one moment what is so improbable as to be almost out of the question, that the two universities were to consent to undertake this very novel task, would this—viewing the matter from the girls' side—be desirable? Anyone who approaches the question from the point of view here suggested, and weighs well the very heavy and novel responsibility of the task, will hesitate before he entrusts it to a committee of junior fellows of colleges at Oxford and Cambridge, who though admirably conversant with boys' studies and habits of thought, of girls and their requirements know little or nothing. Of course if the country is content that the girls' examination should be in all respects assimilated to that of the boys', so that the only responsibility thrown on the university examiners, should be the printing of a few more questions and the revision of a few more answers, then, their want of special fitness for the task would be unimportant.

But even in this case it may be doubted whether this indirect connection, or even any possible association of the matter in the public mind with the two universities is desirable. John Bull has a wholesome conviction that human machines as well as other machines accomplish their work best when confined to the uses for which they were originally intended. Oxford and Cambridge were intended to educate men. Of women's education they profess, as universities, to know nothing. Cambridge, of her courtesy, may have delighted to lodge Mrs. Somerville in Newton's chamber, when that illustrious lady visited Trinity College; but Mrs. Somerville would be the last to ask, and Cambridge (even if competent) would be the last to consent, that she should be examined in their Senate House as a candidate for mathematical honours.

But seriously, do the women of England desire that the course of girls' study should be altogether assimilated to that of boys? And at the risk of weariness it must be repeated, that every subject omitted in this examination will more or less go to the wall in consequence; so that it will be of no avail for parents or teachers to say "you will not be examined in needlework, or in music, or perhaps in Italian, but we wish you by no means to remit your attention to these subjects during the year." Assimilated more and more the two courses of study will inevitably be, if one and the same board of examiners undertake both. And is this what the nation wishes?

Is not the true end of education to make the best of the growing human creature after its kind? Is not the highest excellence of man to be manly, and of woman to be womanly? Is not a masculine woman as much a failure as an effeminate man? Are not the

two sexes, in mental constitution as in all else, marvellously, beautifully, distinctly supplemental one to the other? Did any, except One only, ever combine in a single pattern the highest excellences of each? Surely the differences between men and women are differences of kind, not of degree; anything like competition between the two would be as unwholesome as it would be unmeaning. Let men and women, by all means, if they wish it, study the same branches of knowledge with a most absolute liberty; but let them do it each in their own way, following each their own nature freely; and then, under nature's free unconscious guidance, each will develop their own congenial excellence, and the self-adjusting balance of humanity will not be disturbed.

It seems desirable, then, considering how certainly examination reacts on study, that, as men and men's schools have developed their own system of examination, so women and women's schools should develop theirs. Let women ask the assistance of men in this particular or in that, by all means; but let the two organisations be distinct, for fear of gradually and unconsciously forcing into one groove what nature meant to be in two. As was before said, it would be unreasonable to assume that in the many excellent girls' schools scattered over the country, we cannot find the type of examiner that we want. Let a beginning be made; let some of the professors who have lent their aid in Harley Street or in Bedford Square, with the superintendents of any three or four girls' schools of acknowledged excellence, meet together; let them ask some three or four whose names would carry great weight with the country —such as Sir John Coleridge, or the Archbishop of Dublin, or Mr. Maurice—to join them. Let these form a council of female education, and meet at all events before and after each annual examination, say three or four times in the year. Let them select from their own number (to which they should have power to add) a sub-committee of examiners; the whole council should determine the subjects and revise the questions before they are printed, as well as the annual report; but the actual labour should devolve on the sub-committee who should receive the fees. Do not tie them down with too stringent regulations at first; but let the thing grow like a plant, gathering and assimilating the nourishment of experience and of criticism as it goes on. And a far more wholesome start would be made, than if any ready-made organisation were borrowed for the purpose.

One word in conclusion, on the last head—the progressive influence of a good example. If anyone objects to this plan that it would be slower in its early operation, and would carry less prestige at first, than an organisation already ramified over the country and inscribed with the name of the two universities, the objection is in fact the greatest recommendation. Gamaliel's principle is ever the best principle in a free country. All that a new institution really wants in England is to be "let alone." If our counsel be foolish it will come to nought; if it meet a real need, it will prevail, and no early

difficulties will overthrow it. Let the thing be tried; the more quietly and modestly the better. Whatever credit, and whatever extension it is good that it should have, it will best and most surely win for itself.

ELEMENTARY EDUCATION.*

Elementary Schools in Small Town Populations. By the Rev. Canon Trevor.

THE few remarks with which I have undertaken to open this discussion will be limited to the case of schools connected with the Established Church in places which—for want of a better appellation—we have designated, Small Town Populations. We mean, not towns of small population, but town populations which, large in the aggregate, are distributed into small parochial divisions. Such a town is the ancient city which is honoured by the meeting of this congress. The population of York, amounting to 45,000 souls, is divided among thirty-five ancient parishes, constituting twenty-four church benefices. The average parochial population is about 1,300; but, in fact, several parishes contain less than 500 souls, while none amount to 4,000. The city of Norwich, again, contains thirty-seven parishes, with populations varying from 3,000 to 300. In Exeter there are twenty-four parishes, in one of which the population exceeds 6,000, while in another it is only 207. These figures offer a striking contrast to the neighbouring town of Leeds, with its population of 300,000 souls all in one parish, though recently subdivided into thirty-six ecclesiastical districts. The extent to which the parochial divisions affect elementary schools is far from being generally appreciated.

The public is familiar with the distinction between town and country populations. Everyone sees the difficulty of maintaining a school in a rural village containing but few inhabitants likely to subscribe to its expenses, still fewer competent to assist in the management, and if these difficulties can be overcome, a population too small to supply the classes into which a good school ought to be graduated. We do not expect to meet with the same impediments in populous towns. There we reckon upon wealth, intelligence, population, and every other material. When such a town falls below the average in school statistics, we are apt to impute the defect to a low sense of public duty, and a want of private benevolence.

The object of this paper is to point out, that a great town divided

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* For the Discussion see Summary of the Department.

into a large number of parishes labours under heavier disadvantages, with respect to the means of sustaining schools, than a town of smaller population, or even a rural village, where the integrity of the parochial tie has been preserved. This will be a novel view to those whose researches and experience are chiefly conversant with London society. In London the parochial division is not prominent, even in strictly religious objects; social benevolence is exercised through societies, committees, and other organisations, having little or no parochial character. A large proportion of the money so expended, is contributed by persons only temporarily resident in the metropolis. Their parochial feelings are reserved for their country seats, and they neither know nor care much about the parish in which their town-lodging or mansion happens to be situated.

In the provinces, on the contrary—especially in these old cathedral cities—the parochial principle is very strong. Public worship, as respects the members of the Established Church, and the relief of the poor universally, are administered on a parochial footing. And the number of charitable bequests inscribed on the walls of most of our York churches, strictly limited to parishioners, exhibit a feeling which is very far from being extinct at the present day. To show the vitality of the parochial feeling,—not less than its occasional perverseness,—I may mention that my benefice in York contains two ancient parishes, forming one cure of souls, with only one church. They were united at the Reformation under a somewhat remarkable statute of Edward VI.,* the preamble of which attributes the decay of religion in the city of York to the number of parish churches affording "no honest living to the clergy, but replenishing the city with blind pastors and guides." Some simple-minded reformers had suggested the increase of parochial endowments, out of the vast ecclesiastical revenues confiscated to the Crown, as the readiest means of meeting this complaint; others asked for a university in York, to save the flock from the ignorant and illiterate men through whom the sad proverb was fulfilled—"The blind lead the blind, and both fall into the ditch." But these were not the reforms in favour with that age. With all ecclesiastical commissioners I believe the one remedy for spiritual blindness is—phlebotomy. To replenish the exhausted vein is cheerfully resigned into the hands of Providence. King Edward's Sangrados were content to abate the number of our pauperized benefices: their poverty was bequeathed to posterity. It was enacted that the mayor and justices should pull down so many of the York churches as they should see fit, annexing the parish to an adjoining benefice. There was not even a schedule A to limit the spiritual disfranchisement. The city magistrates had leave and licence to do as they thought fit; and to quicken their zeal they were authorized to bestow the materials of the demolished edifices on the repairs of the city walls. It was a vigorous, perhaps a rude, measure of reform; but with our present experience I am not disposed to quarrel with it, except for not going far enough.

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* Edward VI.

My two parishes were united into one spiritual benefice; so strictly spiritual, by the way, that not a shilling of endowment was allotted to either. The union was purely ghostly; for all bodily and temporal purposes the parishes continued two. Hence we have two vestries, two sets of parish officers, two poor-rates, and, till the Health of Towns Act shut them up, two churchyards. The result is that these parochial yokemates have ever since been at loggerheads with each other. I rule over a little Schleswig-Holstein; the "personal union" is the only tie, and if I have escaped the fate of King Christian, or of those older culprits who were split in two by the resilience of the trees to which they were tied, I feel that my bodily integrity is due to the humanity of the age, and the kindly consideration of my two spouses, far more than to good King Edward's summary expedient for abating the nuisance of a poor and scandalous clergy.

Now if such is the feeling in parishes which for these hundred years have worshipped in the same church and shared the ministrations of the same clergyman, it is obvious that still stronger lines of demarcation must exist between parishes retaining their separate constitution entire. This is a feature of great importance in the school question. The legislature has not only based the national education of the poor on the religious principle, but it has determined to leave the working of that principle in the hands of the several religious denominations into which the people are divided. The parliamentary grants are distributed to the various schools by means of their religious organizations. Under the new code the schools may be said to be supported in about equal proportions by the state, the scholars, and the local subscribers. In favourable circumstances each supplies about ten shillings a scholar annually. But the mainspring of the whole is the local subscription, representing the religious element, and due to the exertions, often to the personal contributions, of the religious minister. In return the state has agreed to leave the religious teaching in the hands of the local managers.

This arrangement has been adopted, not as the most philosophical or the most economical, but as practically the best suited to the demands of religious liberty in this country. It is not unnatural that the Committee of Council, as the central agency for the state grants, should occasionally find these claims a little in their way.

It would be vastly more convenient, and doubtless more economical, if our religious distinctions were fewer and less tenaciously insisted upon. In limited populations it is especially vexatious to see the area, which is not more than equal to one flourishing school, divided into two or three, by a principle which lies outside the purview of the official mind. The grants are dissipated upon unnecessary staffs of teachers, and the schools are positively injured by the less efficient graduation of classes consequent on their separation. In my humble judgment, it would have been wiser in the Committee of Council to rest on this ground the proviso which they are now seeking to introduce into our school-deeds, under the ill-chosen and offensive appella-

tion of a conscience clause. It is the recognised duty of the Committee to insist upon economy and efficiency in the distribution of the public money. In constituting themselves guardians of *conscience*, and that the conscience of the minority,—nay, and not of the minority *in esse*, but the minority *in posse*, the tender consciences of babies yet unborn, but by the fates in Downing Street ruthlessly predestined to Dissent,—their lordships intruded on the province of the religious organizations. Such officiousness may draw a cheer from a few *doctrinaire* statesmen—the most unteachable of human beings—who do not even yet see that while political party is dying out, the greater earnestness of religious teaching is gathering the life and spirit of the nation into our religious distinctions; but it was sure to repel more than it could conciliate of those whose co-operation is indispensable. In point of fact, the so-called conscience clause appears to have excited very little gratitude on the part of the Nonconformists, while it has already provoked a rupture with the National Society, which threatens the destruction of the whole compact. The preservation of their distinctive tenets, in the importance attaching to them in their own eyes, not in the eyes of others, was the condition deliberately agreed upon with the religious organizations. The state has no right to expect the stipulated co-operation without paying the stipulated price. Dogmas which a committee of Privy Council may be quite unable to appreciate or even to understand, may yet appear to good christians of greater importance than reading, writing, and arithmetic. These will not consent to work for the secondary object, if they are hindered in that which to them is primary and engrossing. It is hard to be obliged to remind a Liberal Ministry in the latter half of the nineteenth century that civil and religious liberty does not mean that degree of freedom which another party deems sufficient for us, but that which our own convictions demand for the just exercise of our independence and our conscience.

This digression is not without its bearing on the subject before us, as showing the impossibility of disregarding, in a mixed system like ours, any important feature in the practice or constitution of the Established Church. About five-sixths of the parliamentary grants are claimed by church schools, and these schools are directly affected by the parochial divisions, which limit the action of the clergy. The division itself belongs to the legal establishment, rather than the spiritual constitution, of the Church. It is found in the Scottish establishment as well as the English; it is wanting in the episcopal communions of Scotland and America, though one with the Church of England in faith and worship. In the Established Church of England, however, the parochial principle has been taken into the spiritual framework. The limits originally marked out for temporal endowment, are also the limits of our spiritual mission. The responbilities, labours, and influence of every clergyman are bounded by the limits of his parish. He cannot exceed those limits, without at once losing his own authority, and invading the charge of another;

consequently there is the greatest repugnance to practice or to allow of such intrusions.

Now in the schools connected with the National Society, and in church schools generally, it is a fundamental principle that the religious instruction shall be under the supervision of the parish clergyman. He has the chief voice in the appointment of the teachers, and in most cases is the principal or only acting manager. Hence in church schools the limits of the benefice properly determine the school area. For all school purposes a town parish, though consisting but of a few streets, is as completely severed from its adjoining neighbour as if it were isolated in meadows and cornfields; so regarded, these small town populations are often more disadvantageously situated than the most destitute villages. Every village is at least a complete society in itself: it has its natural head in the chief landowner, who, even if non-resident, does not generally disregard the obligations of property; it has the employers of the labourers for whose children the school is required; it has, in all probability, at least one or two professional gentlemen (besides the clergyman) to support the undertaking. The small town parish, on the other hand, is not a society, but only a slice of the society in which it is situated. It has generally no leading proprietor; often no professional class; very often the labourers are in one parish and their employers in another. My own charge, for example, in the centre of this city, with a population of 800 souls, does not contain a single professional or non-trading inhabitant. The wealthiest places of business are owned by proprietors residing in suburban parishes, and this kind of property is not generally held liable to the claims of charity so much as landed estates; the poor mostly find their employment in other parts of the city; finally, the patron of the benefice is the Lord Chancellor, who cannot be expected to aid the schools of all the 600 benefices in the gift of the great seal. It would be hardly possible to find a village of equal population more destitute of school resources within itself. In establishing one lately, I was of course obliged to seek external assistance, and I remember receiving a sort of a lecture from one of our county members, to whom the circular was addressed, on the impropriety of wealthy places like York expecting help from poor country parishes. "I own myself," he said, "two parishes, where I support the schools at my sole charge; it is too bad to come upon me from a great city, with an archbishop, a dean and chapter, a lord mayor, and two members of parliament of your own." My reply was, that if I possessed a parishioner willing and able to maintain the school, I should certainly not have troubled any one else; that none of the dignitaries named possessed either property or patronage in my parish, nevertheless they had not been overlooked, nor had they refused to admit the appeal. I added, that if he would only imagine his two parishes without himself, and without the rector's tithe, he would arrive at a truer idea of the wealthy city population, for which I was obliged to turn friar mendicant.

The money difficulty, however, is by no means the only one. I succeeded in raising the funds, and the school was soon in operation, with an average attendance of seventy children. It is as little as could well be tolerated, yet even this number cannot be supplied from the parochial population alone. It is made up from other parishes without schools, and if every parish in York had its own school, the greater part of them would be utterly inefficient; they could neither support a trained teacher, nor supply a sound school organization.

It is obvious that parishes so situated must have recourse to some kind of school union; and this is just the problem which our attainments in social science have not yet enabled us to solve.

A union of parishes has long been found necessary in the administration of the poor law; and there can be little doubt that a further extension of the principle is at hand in the adoption of a union rate and a union settlement. The working of these poor law boards has proved so satisfactory, that an eminent statesman who honours this congress with his attendance, has actually recommended them as a model for school unions; but I doubt whether the two objects are sufficiently analogous to justify his inference. The poor law board is appointed to guard a public fund against imposture; to scrutinise with rigorous jealousy the claims of a host of clamorous applicants; and when the claim is established, to administer the lowest modicum of relief that will keep body and soul together. They are guardians of the rate rather than of the poor. An educational board as it strikes me should be exactly the reverse of all this. Its function is to spend, not to save. It should spread its most tempting banquet, and go out into the highways and hedges and compel them to come in. Ignorance does not clamour at your door for relief like hunger and nakedness. You have first to stimulate the demand, and then administer the largest possible measure of supply.

For this reason I confess I would far rather "bear the ills I have than rush on others" which are but too plainly discernible in the proposal of school unions on the model of the poor law boards.

In this city another kind of union has been attempted, by simply disregarding the parochial divisions altogether. A fund has been opened and a committee appointed for the entire city. Schools are planted in different quarters, open to all comers without respect to the parishes in which they live. The parochial clergy are all nominally on the committee, and the schools attend some neighbouring church. Such is the system of the York Church of England National Schools; but this Church scheme, except for the name, might be thought to have been copied from the non-established bodies, who recognise no territorial divisions. It sins against the essential features of the National Society, and of the Church constitution generally, in removing the children from their own parish church and clergyman. I am afraid that the expedient of lumping all the clergy together on the committee cannot be relied upon as an adequate substitute. What is everybody's business is nobody's care. How far the clergy actually visit our schools I do not wish to inquire; but there is no

security for any beyond the clergyman of the parish where the school stands, and the children of all other parishes are removed from the pastoral tie which the church is so anxious to guard.

It is not surprising that many of the clergy object to this system, and very few take an active part in its management. This entails a great loss in that element of school management which is generally most relied upon. The funds again suffer, because the influence of the clergy is not fully put out in promoting collections and subscriptions. And there is a third evil not less serious than the other two: the children being admitted indiscriminately from all parts of the city, and not coming under the eye of their own clergyman, migrate from school to school without check, destroying their own education, and injuring the schools by disturbing the classes and reducing the number of attendances on which the grants are claimable. This evil of migration is sensibly experienced in all schools within easy distance of another. It is held in check by the religious principle, which determines parents to keep to the school of their own denomination; but where this principle is faint (as in the vast majority of the classes from which our scholars are drawn), or where there are more schools than one of the same denomination, parents not unfrequently put the school-fee into the child's hands on a Monday morning, and allow it to wander, wild and brawling like the poet's rivulet, "at its own sweet will." Or the mother takes dire offence at some necessary act of discipline, and shows her independence by carrying her custom to another shop. For this great evil, the most effective remedy is the parochial principle, securing the pastor's inquiry after every missing lamb. If this principle must in some cases be modified, there can be no necessity to abandon the valuable basis of a definite area of population to every school. It is only by systematically attacking the several parts that we can hope to comprehend a large population, and I am afraid the Church in this city will not be found to have secured its proper number of school children, in spite of the zeal and benevolence with which the existing plan has been worked.

I would suggest that the functions of the general committee should be limited to the collection of the funds from the entire city, and distributing them in grants to the respective schools. Every school should have its separate management, and its own defined area of population. Where the parish is sufficiently populous, the school area should undoubtedly be the parochial one, and the school itself simply and purely parochial. The smaller parishes might unite in a district composed of their collective areas, and appoint a united management for the district school. The clergy could agree among themselves for the superintendence of the religious instruction, and the children might attend their respective parish churches. Where two parishes would suffice for a union, it might be easily accomplished by each having a parochial school, one for boys, and the other for girls, the opposite sex being sent to the other parish. A third parish might be admitted to take the infants of all three.

Or again—adverting to Mr. Chadwick's suggestion, that the present school hours are more than children can employ to advantage—it might be worthy of consideration whether the same schoolmaster might not keep school in one parish in the morning, and in another in the afternoon. Such arrangements would combine the pecuniary support of all classes of society without sacrificing the inestimable advantages of the parochial organization.

After all, it is a question deserving the most serious attention whether the parochial organization itself is not, in some cases, too minute for the present state of society. We have heard much of the sub-division of over-populous parishes. The question has long been pressing itself on my mind, whether the union of under-populated parishes may not be at least an equally necessary part of social reform. That the too extensive sub-division of a town is a great impediment to our system of national education has I think been shown in this paper. It is found necessary to supersede it in the administration of the poor-law. Is there any use at all in retaining these little parishes in existence? Might not the precedent set us in the Act of Edward VI. be judiciously repeated? Is there any reason why the Church should continue to be cramped with restrictions which the State has outgrown? The principle of the parochial constitution was to conform the ecclesiastical to the social organization. When society finds it necessary to expand its framework, the Church should be ready to expand also: there is such a thing as overlaying a good work by an antiquated and superfluous apparatus.

Public worship to be anything ought to be hearty. It dwindles among a cluster of scanty congregations, as education is stunted by a number of undersized schools. Population is the life blood of a powerful and intelligent ministry. As Pliny said of the precious fluid which circulates in our veins, and with which such wild work was afterwards made by the lancet wielders:—*Magna est in eo vitalitatis portio: emissus Spiritum secum trahit* (Nat. Hist. xi. 38). After experience of both, I deliberately prefer the risk of plethora to the certain languor of an exsanguined complexionless parish.

In this opinion I am not without the support of high ecclesiastical authority. The Bishop of London lately passed a Bill through parliament for uniting small benefices in the city of London, and the first of his contemplated unions is now actually accomplished. The Archbishop of Canterbury, who was then at York, wished this city to be included in the same Bill, but the opposition manifested in parliament induced him to withdraw the proposition. The postponement will not be regretted, if it should be determined to renew the proposition with some modifications. The provision most objected to in the Bishop of London's Act, was that which sanctioned the demolition of churches and the sale of consecrated sites. The latter certainly would not be proposed in York, and the other might be far more reverently approached. Another defect in the Bishop of London's Bill I took the liberty of mentioning to him while

it was passing, and there is reason to think he has since experienced its ill consequences. His Act unites, but does not consolidate, the parishes. It keeps the old vestries alive, for no other use than to prove their vitality after the Schleswig-Holstein example. This is just a case in which I should follow Dr. Johnson's plan,—not to knock a man at all unless you knock him down. There is no use in keeping him on his legs only to continue the fight. Do not let the new parish be a house divided against itself. Keep the old staff of parish officers if desired, but make them all officers of the entire benefice, and allow but one consolidated vestry.

These suggestions may possibly travel a little—but it is only a little—beyond the title of this paper. They are strictly within the province of social science; but their discussion may be claimed to another kind of synod, and I therefore refrain from pursuing the subject.

Increase of Assistance to Rural Schools. By the Rev. Canon Randolph.

The question which I have been desired to submit to the consideration of the meeting in this paper is this—How can it be arranged that small schools in the rural districts should receive a larger amount of assistance from the public grant? A question of great importance to the educational interests of the agricultural portion of the community, and therefore deserving of serious attention.

The investigations of the Commissioners appointed to inquire into the state of popular education in England and Wales, elicited the fact, that there are about twenty-five thousand elementary schools in England and Wales, and that of this number, about fifteen thousand are not in receipt of aid from the parliamentary grant. That the number of children of the poorer classes under education is about 2¼ millions, and that of these, 1¼ million are children to whose education the state renders no assistance.

Estimating the parliamentary grant in round numbers at a million per annum, it appears that the state contributes something like £1 per head for the education of a million children, but leaves 1¼ million children of the same class unassisted.

Moreover, as is well known, a very large proportion of the parliamentary award finds its way to the towns. The rural schools in receipt of government aid, are chiefly those of parishes in which there is a resident proprietor, who takes an interest in the education of those around him, contributes liberally towards the support of the parochial school, and thereby qualifies it for receiving a grant from the Privy Council.

In fact, the towns where wealth is concentrated, and where there are many residents able and willing to help forward the education of the poor, and rural places fortunate enough to enjoy the presence of wealthy and benevolent landowners, are the localities by which the

assistance of the state has been absorbed; in other words, the very places in which schools could have been most easily supported without government aid, are those which have received assistance; whilst those schools which have the utmost possible difficulty in raising the necessary funds for their support, and in which all the arrangements are, owing to their poverty, of the most cramped and parsimonious character, remain beyond the pale of state recognition.

Now I by no means regret the fact that the better class of schools has been thus assisted, but I think that it is but simple justice that the less prosperous schools should have something done for them—it seems hard upon the small tax payers to be forced to contribute towards education in the wealthier districts, whilst the hamlets, in which they perchance reside, are unaffected and unrelieved by the state grant.

I repeat, however, that I by no means intend to complain of the assistance hitherto rendered to the wealthier schools, because I think the general cause of education has been much benefited by the application to these schools of the state fund. I believe that the public grant for education has evoked an educational spirit, and I think it is an indisputable fact, that the character and tone of our schools has undergone very considerable improvement since the system of government aid and inspection was introduced.

We now know what a good school is, we have before us a standard of proficiency up to which we can work. That inspectors have had very much of their own way I do not deny, that we have been subjected to some crotchetty regulations respecting the shape, arrangement, and flooring of schoolrooms—that there have been some visionary notions abroad touching the extent to which education may be carried in the village schoolroom, is no doubt the case—but visionary speculations are fast subsiding, autocratic tendencies are melting away, and, excepting in one point—that one point, alas! which ought to unite, but does so unfortunately disunite christian men—the relations between the Council Office and the promoters of education throughout the country are much more satisfactory than they were some years ago. The system of voluntary educational efforts, encouraged and supplemented by state aid, has been hitherto on its trial—it has had its weak points and its strong points—the past has taught us lessons by which we shall, no doubt, profit in future.

The style of education in our training schools, and also in our parochial schools, had under its influence become too ambitious; this led to superficiality, and the Education Commissioners detected the fact that in the parochial schools, aided by government, comparatively few children were satisfactorily taught. That is, so taught as that their instruction would be of permanent value. The Commissioners in their report assert that only one-fourth of the children in state-aided schools were successfully educated, that there was a tendency in schoolmasters to neglect the more elementary subjects, and the younger scholars; and to give their chief attention to those who, on

the day of examination, would exhibit most decisive proofs of the power of the teacher to carry on his pupils to an advanced point.

The time, therefore, had come when a change of system in the mode of administering the parliamentary grant was imperatively called for; and the regulation which requires individual examination of the children in the three elementary subjects, was introduced, which, notwithstanding the adverse criticism to which it has been exposed, I cannot but think a wise and salutary change. How can we have a stable superstructure, unless we make the foundations sure?

For financial reasons also, a change was necessary. The public funds were rushing in so copious a stream to the towns and to the more prosperous country places, that the proportion of assistance received by such places was in many cases a moiety, and even more than a moiety, of the total income.

And if we turn to the pages of the National Society's paper, in which such apparently conflicting statements are given by various writers as to the results of the system introduced by the Revised Code, we find that in many assisted country schools about one-half of the school funds must, under the old code, have been extracted from the treasury. The sufferers under the new code are evidently those who before received a superabundant measure of assistance. Schools moderately assisted under the former system find their condition no worse, but rather improved by the operation of the Revised Code. Schools which before relied too much upon government aid, are now obliged to depend more upon their own resources.

The question of the proportion of assistance to be expected from the public revenue is one of importance. That government should be responsible for half the cost of all the elementary schools in the country—still less that it should defray half the expenses of only the most prosperous schools—I cannot think right. Sir James Shuttleworth, if I mistake not, originally calculated that one-fourth of the total expenditure would be the maximum receivable by inspected schools.

The gross amount of the parliamentary grant has of late years almost equalled the total amount of the income of all the elementary schools in the country derived from other sources—such as endowment, school fees, and voluntary subscriptions. The total income of such schools in 1858, exclusive of government aid, was £1,019,168.

But though the school revenue of the country has thus been nearly doubled by the education vote, only two-fifths of the elementary schools in the land have been assisted. The schools, in fact, that are possessed of the greatest capabilities of self-support have had their incomes doubled by the state, whilst the remaining three-fifths, and those the poorest schools, are left helpless, and I might also say lifeless, as before. Can this be deemed satisfactory? Is there not a grievance here which calls for redress, or a fault which requires correction?

The terms under which the parliamentary grant was administered whilst the old code remained in force were such that the poorer schools felt themselves unable to claim the benefits offered.

The difficulty of obtaining assistance is now to some extent diminished, but I think that managers of schools in small country places still retain a sort of traditional notion that the government grant is not for them, that compliance with the conditions of the Committee of Council is, so far as they are concerned, impossible, and that this feeling deters them from taking advantage of the increased facilities for securing assistance.

It appears to me, then, that the first requisite for making the government grant more accessible to small country places is the removal of existing misapprehensions from the minds of managers in such places.

Under the Revised Code any decently instructed school, with a certificated master or mistress at its head, and with an average attendance of fifty children, may secure a grant of £25 from the parliamentary fund. Such an addition to the school funds would more than suffice to make up the difference between the salary given to an uncertificated teacher and one possessed of the needful diploma. I think, therefore, that if managers of schools in the rural districts would entertain this view of the case, would dismiss the notion engendered by the former system that it is beyond their power to qualify their schools for government assistance, and so would exert themselves to secure certificated teachers, in the case of vacancies occurring, the efficiency of such schools would be materially advanced—more, I think, might be made of existing opportunities. But, in the second place, as the principle of voting assistance in accordance with ascertained results has been established, I think that this principle should be fully carried out, and that the power of obtaining aid from the parliamentary grant should be afforded to all schools in which children are duly instructed, and brought up to the requisite standard.

The regulation which disqualifies such schools as are not superintended by certificated teachers for the receipt of government aid, is one apparently adopted for the protection of training institutions. It is supposed that if schools with uncertificated teachers were recognised, the inducement to enter training schools would be removed, and that those institutions would be deserted.

If, indeed, it could be proved that untrained teachers as a body were able to bring up their schools to a satisfactory degree of proficiency, we might rejoice to find ourselves relieved from the necessity of supporting such expensive establishments as training institutions. Such, however, is never likely to be the case; the necessity which led to the original establishment of training schools, still exists, and is likely to continue. Teachers, to be good ones, must like other persons learn their business ; they must be professionally trained. It is quite possible that, if Mr. Walter's motion were carried, as I earnestly hope it will be, the more able and painstaking of the

self-taught masters would be able to qualify their schools for government assistance. These cases, however, would be comparatively few; in the long run, the need of preparatory training would be made apparent. It is my belief that if the protective policy were abandoned, and government aid were freely offered to all duly conducted schools, by whomsoever instructed, the demand for trained teachers would be increased. The benefits of training schools would be more generally appreciated, and whilst the interests of training schools would suffer no injury, those of elementary schools in the rural districts would be materially advanced.

I venture also to suggest that the scale of award to small schools might equitably be somewhat higher than that allotted to large schools. The average cost of scholars per head, in small schools, is considerably more than it is in schools more numerously attended.

The probable receipts of a school with an average attendance of one hundred children, from school fees and government grant, taken together, would be at least £80, whereas those of a school containing about sixty children would probably be about £45. The cost, however, of salaries in well organised schools of these respective sizes would be nearly the same. To this it will no doubt be replied that one teacher would be sufficient for a school of sixty children, whereas in a school of one hundred children it would be necessary to employ two teachers. I believe, however, that even in small schools—in schools at least where there are as many as fifty scholars—it is desirable, whenever possible, to have two teachers. The restlessness of young children diverts the attention of the upper classes from their work. Children under six should form an infant department separated from the other part of the school at least by a curtain. If one person is charged with the duty of attending to the upper and lower classes of children whose ages range from three or four to ten or twelve years, one or other division, nay both divisions, of the school will suffer. In the case of a mixed school under a mistress, a pupil-teacher would render sufficient aid for the junior division; in the case of a school superintended by a master, an infant mistress, who would instruct the older girls in needlework, would be a desirable addition; such second teacher need not, under the present regulations of the Committee of Council, be certificated.

If then, in cases where a pupil-teacher, or other assistant teacher, is employed in parishes of which the population does not exceed one thousand, an augmented scale of assistance were offered, I believe that a considerable stimulus would be given to the improvement of small country schools. In such schools, when liberally and efficiently organised, the cost of education is nearly £2 per head; that a grant, verging upon a moiety of the expenditure, should be awarded to this class of school need not be grudged. If this be objected to on the score of expense, I say let there be retrenchment in other ways. Let the proportion of assistance given to schools in the wealthier and more populous districts be strictly limited to twenty-five per cent. of the cost of such schools, and perhaps in populations numbered by

hundreds of thousands, it might be lowered to twenty per cent.; above all, let the working expenses of the system be kept down; let the official charges be as small as possible; let more be left to local judgment and discretion; let there be no unnecessary official interposition; under a system of payment for results but little of such interposition is necessary; let not inspectors be required to travel through the country visiting training schools twice a year, and examining, not only students within the walls of those institutions, but also their teachers. The plan involves needless interference and useless expenditure.

To prescribe or to watch the *modus operandi* under a system of payment for results is altogether unnecessary. I conceive that it is no part of the duty of the central office to do so. Their part is to test the efficiency of work actually done, no matter how done; to examine into results, no matter how those results are obtained; and if this principle of payment in accordance with results were consistently carried out, a saving would be effected, and a larger proportion of the parliamentary fund would be set free, to pass directly from the treasury to the elementary schools of the country.

The three proposals, then, of this paper for the amelioration of the condition of the small schools in the rural districts are:—

1. The removal of prejudices or misapprehensions respecting the operation of the Revised Code.

2. The opening out of government assistance to all schools, by whomsoever instructed, attaining a certain standard of proficiency.

3. A larger measure of grants from the state to schools in small places, inasmuch as the actual cost of the education of each child in such places is considerably higher than it is in more populous parishes.

That the principal elementary schools in the country should be handsomely recruited from the public revenue, whilst the smaller schools are struggling for existence, and are in a hopeless condition of poverty, seems to wear the appearance of injustice.

If the tables were turned, and whilst the wealthier places remained unaided, the funds of the poorer schools were supplemented from the public purse, the aspect of the case would be different, and there would in reality be less room for complaint. Not that I am the advocate of a policy so revolutionary; but so long as there are within the rural districts 15,000 unaided schools, containing within them more than 1,000,000 children, it seems to me a bounden duty to draw attention to this anomaly; to plead on behalf of these poor children; to ask for some concessions in their favour, and to advocate the application of some of the parliamentary grant to meet the necessities of their case.

The due instruction and religious training of the young in the rural districts is not less important to the welfare of the country than the education of children in towns; and in this I am sure we shall all agree, that if the tone or habits or character of our agricultural population is to be elevated and improved—and that there is much

need of improvement none will deny the—foundations of this work must be laid in the schoolroom.

We may not, therefore, rest till there are established, not only in the towns, but also throughout the rural districts, well regulated, competently officered, duly instructed, and, may I not add, adequately assisted schools.

ADULT EDUCATION.

Evening Classes, and the Associations for promoting them. By the REV. H. R. SANDFORD.

IN the term adult education, may be included all efforts to continue the education of young persons who have been taught in our elementary day schools as children, and are now employed in different spheres of manual labour. As this education applies to young persons from thirteen years of age and upwards, it is somewhat incorrectly termed adult education: it is, however, the term which has been assigned to it in different parts of the country by those who have laboured in this sphere, and for want of a more appropriate one will perhaps sufficiently serve our turn.

It is evident that the subject, by whatever name we call it, is an important one. In order to perceive fully how important it is, we have to consider that about a million of children leave our elementary schools each year for employment before they are thirteen years old, and are thus deprived of the humanizing influence of education, just at an age when they need it most.

We may well fear that an immense amount of the labour and money spent in educating the children of the working class, is, in a great measure, lost for want of some well devised and successful efforts to keep them under the influence of education during the stage of youth and early manhood; nor can we wonder that, in districts where no means of instruction are provided for the youth of the working class after they have left the day school, or when they cannot be induced to avail themselves of the means when provided, the friends of education are reproached with the little good their efforts have accomplished.

I do not think the reproach is on the whole deserved, as I am sure, from what I have seen during twelve years' experience, that the schools have done much to christianize, if not to civilize, the youthful population. Yet there is some apparent ground for it. With children leaving the day schools for work so young as they do, what are we to expect? In the most favoured parts of rural Yorkshire, 80 per cent. leave before they are twelve years of age. In the Middlesborough iron district, 93 per cent. leave before they are that age.

The education of the youth who have left our day schools, is kept up by means of evening classes, held in connection with elementary schools, mechanics' institutes (I am sorry to say we have no working mens' colleges in this district), sometimes by means of adult classes connected with Sunday schools. I wish to make a few remarks with respect to some of the different institutions above mentioned, and also with respect to certain plans for promoting and encouraging them, which I have found working with good effect in different parts of the country.

Before I proceed to do this, I may as well mention what is being done, in the way of adult education, in that part of this county (Yorkshire) which I am best acquainted with—the North and East Ridings.

In the North Riding there are only five night schools in connection with national schools under inspection. There are only three in a state to claim grants from the Committee of Council on Education, and those are held at Danby, Ingleby Arncliffe, and Scarborough. There are between fifty and sixty scholars under instruction at these three night schools. At South Stockton, there is a night school numbering about a hundred scholars, which I do not visit. I cannot ascertain that the mechanics' institutes in the North Riding towns, except at Middlesborough, Thirsk, Whitby, and a village near Redcar, keep up any system of class teaching. At the Middlesborough and Whitby institutes, there are night schools attended by labouring lads and a few of a higher class; the attendance, taking the average, being between thirty and forty at each place; these, added to some score of students at the Thirsk institute, will make up the number of those attending class instruction at mechanics' institutes to about a hundred in the North Riding. With regard to the number attending classes in the institutes, I only speak from hearsay, as I do not visit them. On the whole then, the number of youths attending any public night school or institute, is not, as far as I can ascertain, over 250 in the North Riding; the city of York is not included in this estimate.

In the East Riding there are about 130 scholars in the six night schools connected with national schools under inspection, besides some 150 in one large night school held at St. Stephen's National School, Hull, which is not under inspection. This number is very small as compared with some parts of the country. Yet the youth who are educated in our national day schools in rural Yorkshire, have good natural parts with considerable power of application, and from what I have seen, I feel pretty sure that well directed efforts on behalf of night school education would in some places accomplish much, in spite of the peculiar difficulties with which, in a rural district, the work is surrounded. All difficulties are overcome by energy and self-devotion in a good cause.

With regard to funds for carrying on these institutions I would remark, that neither in Yorkshire nor in the country generally, the managers sufficiently avail themselves of the grants for their support, offered by the Committee of Council on Education. The grants are

2*s.* 6*d.* a head on the average attendance; 5*s.* on every scholar who passes in reading, writing, and arithmetic, according to the requirements of the Revised Code. On behalf, then, of an evening class of twenty scholars, school managers may obtain a grant of £7 10*s.*, allowing for failures and irregular attendance, say £6. According to this scale, the grant on ten scholars would be only £3; on thirty £9; on forty, £12.

These grants of course can only be obtained for evening classes held in connection with elementary day schools; though I would remark, that the night school need not be carried on in the same room as the day school, nor need it be called a night school. Sometimes the idea of an institute is more popular.

The evening scholars who are taught in Messrs. Akroyd's schools at Haley Hill and Copley, are enrolled as members of a working men's college. I assisted my colleague, Mr. Sharp, to examine them last autumn; they seem to enjoy the examination, and to enter into their work with great spirit. There were about 160 in the male department alone at Haley Hill.

In the case of the village night school, the above amount, besides a portion of the school fees, should, I think, be made an addition to the day schoolmaster's salary, whom I am supposing takes charge of the night school: it is little enough, if a teacher devotes himself to this work, without making any deductions from it. Expenses of lighting, books, &c., might surely be defrayed by voluntary subscription. It is, I think, a point of great importance that the master of a day school in a town, who takes an hour or two's work in the evening, should have the afternoon, or a great part of it, for exercise; hence I have always urged the appointment of an assistant-master to relieve the head-master in the afternoon, when he has to take charge of a night school. In cases where this cannot be managed, and when the same master has to teach both morning, afternoon, and night, I always suggest that some portion of the afternoon should be taken up in drill and exercises.

I have so far alluded only to the employment of professional teachers in night schools—it is not that I undervalue that of volunteer teachers. In this district, perhaps, the greatest effort made in the way of adult education has been made by a volunteer—a lady. Miss Simpson's evening classes for farm lads have been carried on in all sorts of places and at all times of the year; but of course this kind of self-devotion is not in an ordinary way to be looked for, and cannot be depended on as a regular means of carrying on night school work. Yet I have known excellent service done by volunteers. One of the most successful night schools, in a village that I am acquainted with, is carried on by a clergyman—Archdeacon Allen—aided by his wife and daughters. When both agencies are at hand, that of the professional and of the lay teacher, it is best, I think, that the professional teacher, or the clergyman, if he be present, should arrange the working of the school, and maintain order; that the volunteers should merely take each a class, working as assistants.

Ladies are of the greatest use in teaching the adult scholars. Many of these adult scholars are very backward, and ladies are more gentle and patient in dealing with them than, as a rule, a schoolmaster would be. On the other hand, a certain amount of the discipline and order which a professional teacher knows best how to carry out, is much wanted for the lads between thirteen and eighteen. It must not be forgotten, that a disorderly undisciplined night school is likely to be rather a nuisance than a benefit to its neighbourhood.

But it may be urged, that however large the staff of teachers, however skilful the teaching, night schools are never likely to be popular or well attended. Certainly the difficulties in the way of attracting a good attendance to evening classes in country towns, and still more in rural districts, are very great. So long as the hours of labour are what they are for farm servants, and sometimes for young apprentices, there will not be over much energy left for work of the mind among young persons of this class. Then, too, young people are a little self-willed; yet when I am told that if employers, farmers or others, use their influence with those they employ, to get them to attend evening classes, it will avail nothing, I can only say that facts are against this theory. I have already alluded to the attendance of evening scholars from Messrs. Akroyd's mills; at the Messrs. Forster's works near Bradford, as my colleague, Mr. Fitch, informs me, not only the mill lads but many of the lookers attend the evening classes regularly. The young potters from Messrs. Baker's works, Fenton, North Staffordshire, hardly ever missed an evening at the night school. At the Messrs. Bagnall's, South Staffordshire, even the iron workers, the worst class of all for attending night schools, came to their night school, sometimes up to the number of a hundred or more. And why was this? Not in any of these cases that the young people were forced to attend, but they knew that their employers wished them to do so; they knew that their employers visited the evening classes, in some cases that they taught in them; and so, even in our rural districts, as at Etton, Wetwang, where farmers have assisted at the night school, it has had a good effect on the young people. But the attendance at these classes is apt to fall off, so it would be well to consider one or two plans by which evening class teaching may be made more attractive.

First, then, might not class teaching and the attractions of a reading-room be combined more than they are? I mean a reading-room where, besides interesting books and papers, draughts and chess are provided for recreation. These two institutions, night schools and reading-rooms, are not sufficiently, I think, made to fit into each other and help each other. A reading-room by itself does not effect much good, and it is not sufficiently attractive. We want to see the minds of the more educated portion of the community brought to bear on the less cultivated; and this is not effected by merely having the working population gathered into

a room which the gentry occasionally look into. It can only be effected by direct teaching; on the other hand, to keep up a night school every night in the week is too great a strain on the teachers. So why should not a reading-room always be connected with the night school? The same room might serve for both, the night school-room being thrown open as a reading-room when the classes are not being heard.

The reading-room at Haughton-le-Skerne has been so successful, that though the exact plan which I have suggested is not carried out there, I think it well to notice it. The institute, founded by the rector, has primarily for its object the formation of a parochial library of good standard books: it has already 400 volumes. There are two rooms belonging to the institute; the person who has the charge of the room provides coffee, &c., for the members. There is a singing class in connection with the church choir, of which all the members of the institute are honorary members. There is a French class taught by a lady, which clerks from the neighbouring town who live in the village attend. A Bible class was established, but the young men who might have attended it preferred to attend a night school which the rector had opened. It appears that in this case the night school and the institute were kept distinct. Sometimes, as in the case of the Messrs. Chance's library and reading-room, the members of the reading-room form the upper department of the night school. This is, perhaps, the best plan, the evening classes there being about the most successful that I have seen.

One of the most efficacious plans for drawing young people to attend evening classes, is to hold examinations, offering prizes, and certificates to the successful candidates: and this leads me to say a few words with respect to the various unions and associations for the promotion of adult education, which have done so much to stimulate the work in different parts of the country. There are four of these associations, with the working of which I have some acquaintance; viz., the East Lancashire Union of Institutes; the South Staffordshire Association for Promotion of Adult Education; the Southern Counties Adult Education Society; and an association having the same title in North Staffordshire. Besides the above, there is the Yorkshire Union of Institutes, with the operations of which I am not acquainted, but which has accomplished so much for the encouragement of education in the West Riding, the field of its operations extending even to Hull and Middlesborough, and one or two other places in the East and North Riding.

These associations are generally constituted upon the following plan:—those who are concerned in the management of night schools and institutes, or gentlemen who wish to support them, form themselves into a union for the purpose of co-operation in the common work. The objects secured by such co-operation are, the facilities for holding examinations open to members of all institutions in union; the employment of organising masters, whose services are shared by the different classes in union; of local assistant-teachers,

who have the charge of classes in the different institutes, and are paid by the union; the encouragement of study of natural science, by offering prizes for collections of fossils and flora of a district; the means of expressing the public approval of services rendered to the cause of adult education by a system of gratuities and medals offered to teachers by the association. The Southern Counties Association adopts the plan of offering grants and gratuities, expending £30 or £40 annually in this way; so also does the North Staffordshire Association. The employment of organising masters is that adopted by the East Lancashire union. There are local teachers whose classes the organising master is supposed periodically to supervise and examine in connection with this union. I can myself testify to the success of the efforts of the East Lancashire union among the factory workers and mechanics in the Burnley district, as at the request of the president I took part in one of the examinations. There were some 170 candidates from the Burnley district alone, two-thirds of whom were factory workers. This union is fortunate in having as its president Sir James Shuttleworth. Of the Staffordshire associations, that in South Staffordshire was formed somewhat on the plan of the East Lancashire union, employing an organising master and embracing in the first instance mechanics' institutes rather than night schools within the sphere of its influence: the examinations which it conducted were in the first instance held only in reference to the certificates and prizes offered by the Society of Arts: this association has since extended its operations so as to embrace night schools. The other in North Staffordshire was more on the plan of the Southern Counties Society, established with a view to encourage elementary night schools.

The operations of the associations in Staffordshire are conducted by committees; that in South Staffordshire owes much to the influence exerted by its president, Lord Lyttelton. Considerable success has attended the efforts of these associations, especially in regard to the number of candidates attending these examinations, as will appear from the following figures.

In the Southern counties the number examined in 1856, was 3, in 1862, it was 269. In North Staffordshire, in 1860, the number was 40, in 1864 it was 130, of whom 105 were successful. In South Staffordshire, in 1860, 26 candidates were examined for the Society of Arts certificate, and 65 for local certificates, and in 1862, there were 51 of the former, and 157 of the latter.

The examinations are suited to a variety of capacities; there are the examinations for the Society of Arts prizes for the more advanced candidates: in order to prepare papers for those of humbler attainments a committee of examiners, composed of delegates from the different associations, has been formed: by adopting their papers a uniformity of standard throughout the country is secured, and a uniform value thus attaches to the certificates. Candidates who are successful at these examinations have their names entered in class lists; the certificates are awarded at a public meeting. The

encouragement afforded to the young people by this public notice of their success, is one of the chief advantages which an association of this kind has to offer. Again, the employment by the association of the most intelligent young men as local teachers for the different evening classes seems to be an excellent plan. It is the means of rewarding many a deserving youth, who may be inclined to give his services for so useful a work; his being paid by the association, and having his work periodically supervised by the secretary, is a guarantee that he understands something about the business of teaching. If an association of this kind offered prizes to the youth who excelled in athletic sports, or to the institutes which could show the best youthful rifle corps formed from their members, it would not be departing from its proper function. To train the bodies of the citizens so that they might grow up sound and healthy, valiant, active, was ever held by ancient nations to be part, and that no mean part, of education.

In conclusion, as I would gladly see some practical result follow from the discussion on this subject, I would venture to suggest whether an association such as I have described might not with great advantage be established for the encouragement of adult education in North and East Yorkshire. I am aware that the Yorkshire union of institutions professes to extend its operations to the whole county. Yet I doubt whether the gentry and clergy in the North and East Ridings will ever take sufficient interest in the proceedings of an association which has the basis of its operations so far off as Leeds. On the other hand, if it be desirable that there be one association for the whole county, the establishment at least of a branch committee for the North and East Ridings would be desirable. Men most readily take an interest in these and similar undertakings when scope is left for local self-management, when they feel they are working for the good of their own immediate neighbourhood, and when they see the result of their efforts in the improvement of those who live around them. It may be urged as an objection against taking any action in this matter, that a district so scantily supplied with night schools as the North and East Riding, is not ripe for any such a scheme as I have suggested. On the other hand, the case of the Southern Counties Association which started with examining three candidates, and in 1862 examined 269, seems to show that associations of this sort may tend to increase in any district the number of young persons anxious to improve themselves. Certainly the existence of an association of the sort for the encouragement of adult education, with its public examinations and distribution of certificates, seems to draw attention to the subject; the fact that a committee meets periodically to carry out plans for its improvement, tends to awaken public interest; the common interest thus excited leads individuals to make efforts in the cause, which otherwise might not have been made. This especially is the case when men of influence, of energy, of public spirit, in a county will give their countenance and their assistance to the work.

On Sanitary Instruction and Training in those Domiciliary Habits which conduce to Physical and Moral Well-being. *By* HENRY ROBERTS, F.S.A.

THAT the domiciliary habits which conduce to physical and moral well-being have been too generally disregarded by a large portion of the community, even in the most civilised countries, will be admitted by all who have in this respect investigated their actual condition. The evil effects of this neglect are mainly physical in their personal influence on those of the upper and middle classes who, from ignorance or want of consideration, expose themselves and their families by occupying a dwelling which is unhealthy as to its locality, or defective as to its sanitary arrangements; whilst in regard to the lower classes the evil results are too often moral as well as physical, and multitudes of the poor suffer in both respects, in consequence of the ignorance or neglect of duty of those of the upper classes on whom they are dependent, and without whose aid their domiciliary condition can only be partially ameliorated. The means best adapted to effect a change in this most lamentable state of things is therefore an important practical question, and although I have referred to some of them in previous papers published in the *Transactions** of this Association, it has been thought desirable that they should be more fully brought under your consideration, and that the result of twenty years' experience, during which much of my time has been devoted gratuitously to promoting the improvement of the dwellings of the labouring classes in this and in other countries, should be stated in their bearing on the subject in question.

After a long period of persevering effort, the advocates of sanitary reform begin to see the fruit of their labours in the attention now given to it by the public; yet but little comparatively is done towards the much needed instruction of all classes in the science of preserving health, or in the training of such as labour with their hands in those habits of personal and domiciliary cleanliness and order, which conduce to physical and moral well-being. The science of preserving bodily health has been considered too exclusively the department of the medical profession, as in some countries religion is deemed to be exclusively the department of the priestly order.

In regard to the upper and middle classes in our country, it is instruction rather than training which is needed, in order that they may no longer remain ignorant of the conditions and of the importance of a healthy dwelling. The past want of such knowledge on the part of the educated classes in England might be illustrated, if it

* *Transactions*, 1858, p. 588; 1860, p. 766; 1862, p. 750.

were necessary, by many striking instances which have come to my own knowledge. I might refer to debates in parliament; to the halls in which men of learning and science assemble; to the proceedings of magistrates, and of those who have been selected by their fellow-citizens as guardians of the poor; but the time to which I am limited forbids my saying more than that to the ignorance of men in such positions may be traced the great want of the proper provision for the drainage of some even of the princely mansions of our nobility, and the cesspools beneath them, as well as the often very inadequate provision for ventilation, particularly in apartments occupied by the children and servants of the family. The effects of this ignorance have extended much beyond the limits of their own families, for to it may doubtless be attributed, in no small measure, the long neglected state of the dwellings of the labouring population. Insensible to the evils resulting from sanitary defects in their own dwellings, landowners and employers of labour were not likely to estimate aright the consequences of much greater and more serious defects in the dwellings of their dependents. The instruction which I advocate should therefore reach the highest as well as the lowest classes in the community, and should be given in our colleges not less than in the schools of the poor, special care being taken that scientific truths be studiously conveyed in a form suited to the capacities of the audience, and be accompanied by practical illustrations, adapted to impress on the memory their application to the circumstances of every-day life.

It was in accordance with these views, that the representatives of twenty different countries, convened at the Congrès International de Bienfaisance, in Brussels, in 1856, adopted unanimously the proposal which I there made, to the following effect: "The Congress declares that it is of public utility that the working classes be enlightened, by all possible means, in regard to the improvement and the keeping of their houses in good order; it declares that the instruction of the young in the labouring classes ought to comprise all which relates to the cleanliness of their persons and of their dwellings to the benefits resulting from good ventilation, and the evils resulting from humidity. Lastly, it thinks that the study of the science of preserving health, is one which ought to be rendered accessible to all."

In regard to the lower classes, some apparently take for granted that the evils we desire to see remedied are a necessary result of poverty, and taught by experience, as well as by holy writ, that "the poor shall never cease out of the land," deem that in their case a remedy is hopeless. But, whilst maintaining that there is no more certain test of the temporal well-being of the working classes than the condition of their dwellings, and admitting that poverty has in this respect a decidedly injurious tendency, other and unquestionably removable causes might be easily pointed out, which are with much greater certainty deteriorating in their effects on the homes of the working population; and at their head and fore-front stands the monster vice of intemperance. Multitudes whose wages would

suffice to provide them with every comfort and even some of the luxuries of life, in consequence of their vicious habits, live with their families in an appalling state of moral and physical degradation.

No one, however, who has come much in contact with the poor can doubt that both physical and moral well-being are compatible with poverty, nor will they have failed to observe that individuals and families, similar in regard to their pecuniary circumstances, often present a striking contrast in their domiciliary habits. I have seen adjoining cottages, and neighbouring rooms in lodging-houses, exhibit unquestionable evidence of the dissimilarity which exists in the habits of the occupants; and in spite of the injurious tendency of town life, where so generally the working classes are overcrowded in their dwellings—and those so often situated in low unhealthy quarters—cleanliness, order and propriety may be found, with sufficient frequency, to prove that it is not a hopeless task to combat the existing mass of evil.

That there is a great necessity for the training of the working population in good domiciliary habits, as well as for the supply of good dwellings, suited to their means, will scarcely be questioned; nor will those who have considered the subject much, deem their instruction in sanitary science to be superfluous. How to accomplish the former object most effectually, especially in the case of children who are exposed to the antagonistic tendencies of home training, I do not attempt to point out, believing that the plans pursued ought to be varied according to circumstances. Amongst those which have been tried with success are the following:—

The delivering of lectures on sanitary subjects, and the publication of small books, written in a style adapted to the capacities of the working population. The Ladies' Sanitary Association, established about seven years since in the metropolis, seeks by such means to promote its object. In connection with it nine branch associations have been already formed. The bestowment of premiums and rewards for the best kept cottages was a plan adopted at Windsor by the late Prince Consort, who made a point of delivering the prizes himself, which added greatly to their value, as I can testify from having witnessed their distribution. In some instances there has been the loan of such articles as facilitate improvement; and district visitors, generally connected with some religious body, as well as women engaged in the sale of the Scriptures to the poor at reduced prices, often combine sanitary instruction with their more special object, and by manifesting sympathy with those to whom they give advice gain their thankful attention. Mechanics institutions and working men's clubs are fitting places for the delivery of lectures and the diffusion of such knowledge as we desire to see imparted. In industrial, and especially in training schools, it should form a part of the course of study. In all these cases much assistance might be derived from the establishment of such collections as were recommended at the Congrès General d'Hygiene held in Brussels in 1852, when, on my proposal, "The utility was declared

of establishing in each country, and also in the principal centres of the population, a collection, as complete as possible, a kind of museum where shall be gathered together models, plans, specimens of materials, &c., relating to hygienic amelioration and progress."

About fifteen years since, when acting as honorary architect to the Society for Improving the Condition of the Labouring Classes, I commenced the formation of such a collection, and placed it in the Exhibition of 1851. The idea has been subsequently expanded by Mr. Twining, whose economical museum at Twickenham may be studied with great advantage by those who desire to promote the sanitary and social improvement of the masses of our population.

RAGGED SCHOOLS.

The Duty of Government to Aid in the Education of Children of the Perishing and Neglected Classes. By MARY CARPENTER.

IN the year 1847, a Select Committee of the House of Lords directed its attention to the "Execution of the Criminal Law, especially respecting Juvenile Offenders and Transportation." The two subjects would not, at first sight, appear to have any close connection with each other, and yet there was a deep significance in their union. The subjects of transportation were found, in a large number of cases, to have begun their career of crime as juvenile offenders. How to deal with these two questions was the subject of long and anxious discussion, and the examination of many witnesses of high judicial experience. There was much difference of opinion on other topics, but perfect unanimity on one—the last resolution. The report says :—

"Upon one subject the whole of the evidence, and all the opinions are quite unanimous, the good that may be hoped from education, meaning thereby a sound moral and religious training, commencing in infant schools, and followed up in schools for older pupils; to these, where it is practicable, industrial training should be added. There seems, in the general opinion, to be no other means that afford even a chance of lessening the number of offenders, and diminishing the atrocity of their crimes."

After such a resolution, coming from such authority, and supported by so many witnesses, it might have been anticipated that so comparatively easy and inexpensive a remedy, so commending itself to the common sense of the nation, would at once have been tried; that immediate measures would have been taken by the

Government to discover the means of supplying to the perishing class which needed it, that education which might prevent it from becoming very dangerous and very costly. Such measures have never yet been even attempted.

It may be answered, that the kind of education which this resolution indicated was not such as could be supplied by any government; that the mechanical teaching of the rudiments of knowledge would do little to arrest the impetuous torrent of crime, which threatened then to inundate our land—which has done so since—which is doing so now. It is granted. Such education as will check the progress of vice in the lowest class of society, from which chiefly the ranks of crime are recruited, is not simply the instruction in the elementary branches of knowledge, which will afford power either for good or for evil; reading, writing, and arithmetic, however valuable in themselves, however essential to those who would desire to rise above the lowest dregs of society, and however convincing they may be as a test of educational progress—these alone will not civilise the young savage wanderers in the haunts of vice, or enlighten the dark burrows of poverty in our crowded cities; these will not convert to Christianity the heathens of our own land, nor even loosen the fetters of dense ignorance which chain the intellects of these children of misery. But yet these are necessary implements, machinery costly to obtain, but indispensable to all who attempt to do the great and difficult work indicated by the Committee of the Lords. And there are abundance of men and women in our country, with true loving hearts and Christian spirits, who would gladly do the work, and help to give a real education to those children, if only the external means of doing so were afforded them by Government, if only their voluntary efforts were seconded by efficient pecuniary educational help. But this has not been done. Large aid has been given by the Privy Council to those who can and will obtain education for themselves; the higher and even the ornamental branches of a liberal education have been assisted, for we have seen the prize for drawing obtained at the public expense by the son of a late member of the Government; but those who want the simple bread of knowledge are left to starve. It is only through the sentence of a magistrate that the poor ragged child, the petty pilferer, the incipient thief, can obtain from his country that true instruction, which, if before extended, might have saved him from much evil, and the country from much harm and cost. Still are our reformatories filled with children in the lowest depths of ignorance, who have never received any Christian sympathy. Still are our convict prisons crowded with such, and from their depths comes forth such a testimony as this:—"The religious and moral condition of the prisoners may be shortly but truly and accurately described, in apostolical language, as that of men 'living without God in the world.' . . . . In most cases there has been an utter and habitual neglect of all the requirements commonly regarded as essential to even a nominal Christian life." So speaks the chaplain of Millbank Prison, in the

present year, and in the former one, the chaplain of Dartmoor Prison testified:—"Many demand our pity as much as our censure, considering their extraction, and the deplorable circumstances which have overshadowed them from their birth. Not a few of them first saw the light in the 'guilt-gardens' which disgrace our great cities. It would have been little short of the miraculous, if these unfortunate ones had turned out better than they have. What would have been the career of any of us, had we been born in a community of thieves and depraved beings, breathing an atmosphere of oaths and obscenity, looking upon everything we could grasp as our spoil, and regarding every one whom we could overcome as our prey."

The only agency that has ever attempted to grapple with the difficult work described in the report of the Lords' Committee, and indicated by the foregoing extract, is that commonly called the ragged school, a movement which began about the year 1846. It attempted to afford the very kind of education described in the resolution already quoted. The founders of ragged schools sought out the very lowest and most neglected children they could find, endeavoured to give them moral and religious training, to civilise them, to teach them honest industry, and to let them know practically that they were not regarded as the offscourings of the earth, the refuse of society—that there were those who cared for their souls. The work was a difficult one, but they persevered in it, and eighteen years of long and painful experience has only convinced them more and more forcibly that this is the very work most wanting in England. They began it as a doubtful experiment, regarded with sceptical eyes by those who took an interest in education generally; they were not sympathised with by those devoted to the interests of their peculiar churches, and who desired especially to augment their numbers. Hence, there has always been a great difficulty in obtaining funds for the necessary expenses of such schools, which have often been inefficient from want of proper machinery and teaching powers. But we have seen our ragged shoeless children grow up under our care into respectable men and women, taking care to give their own sons and daughters a good education; we have seen others doing well who must have finished their career of juvenile crime within convict prisons, if they had not been arrested in time; and we are quite satisfied that we are doing in a very narrow sphere, the very work which should be done extensively and on an organised plan, which would effectually search into every alley of every large city in the kingdom, and carry its influence into every benighted rural district. Here is a sample of the children who ought thus to be gathered in. It is a page taken at random from a return of 92 boys, at one time in Liverpool goal, in February, 1846.

"J. T., age sixteen, fourth conviction. Father a fireman on board the steamer *Windsor*, up the Black Sea. Mother with six children. They appear to be in great distress, but bear good characters.

"W. L., age fourteen, first conviction. Father and mother industrious people. Their son was led away by young ——. Father rather severe.

"W. S., age ten, first conviction. Mother a widow, and has been so for eight years. She bears the character of an industrious, hard working woman, with three children to maintain, who were entirely from under her control when she was out working.

"M. R., age fourteen, fourth conviction. A Manchester thief. When in Liverpool frequents H. C.'s, where young thieves frequent.

"M. T., age fifteen, first conviction. Mother a widow, with five children. Without food, and confined to her bed for eleven weeks. Cannot now control her children. The street is very bad.

"E. L., age fourteen, second conviction. Step-father; his mother a very careless woman; allows her children to go where they please. Step-father seldom interferes. They are in comfortable circumstances.

"G. M'N., age fourteen, second conviction. Father gathers old clothes. The children are allowed to go about the streets to get their living.

"T. T., age fourteen, first conviction. Mother living in a cellar. She encourages her son to steal; allows him to go with bad boys, and harbours bad boys in her cellar.

"M. B., age fourteen, first conviction. This boy has no parents in England; when at home lives with his aunt; frequents some notorious houses in Spittlefields; since he arrived in Liverpool he was sent to the ragged school, Soho Street, but ran away from there. Father a hod-carrier, mother goes out with her basket: both, unquestionably, must have known their son was going on wrong, for they allowed a shop lad, named Kelly, to bring drink to their house."

Now it is evident that such families as these cannot be touched by the national and British schools. and must become the prolific source of crime, unless Christian effort is directed to them, unless something is done for them which shall effectually touch the very root of the evil; and when, as in the last case, the ragged school fails to reform, it discovers the child who requires higher control, and has him placed under magisterial sentence in the certified industrial school. Yet reformatory and certified industrial schools may reform and save individual children, but cannot arrest the progress of crime in those thousands who are perishing from lack of knowledge, and who cannot help themselves. What have these poor children done that they should be left in a civilised and Christian country neglected and ignorant?

The lamented President of this Department, Mr. Nassau Senior, last year at Edinburgh sustained the following important positions, which, as one of the Royal Commission on Education, he proposed for its adoption.

"That education is as much necessary to a child as food is.

"That a child is as much wronged by being left uneducated, as it is by being left unfed.

"That it is as much the duty of the community to see that the child is educated, as it is to see that it is fed.

"That, unless the community can and will compel the parent to feed the child, or to educate the child, the community must do so."

The last of these propositions naturally arises from the first.

The Government has always acknowledged that a child must not be left without food, that he has a right to the sustenance of the body; he surely has an equal right to the needful sustenance for his

more spiritual nature. Society cannot justly demand from him obedience to her laws, if he has never been taught what they are, except from the discipline of the gaol, if he has been left to grow to manhood in utter ignorance of the simplest rudiments of knowledge of his duty to God and to man.

The Government of our country has never yet acknowledged this responsibility to protect the child from ignorance as well as from starvation; it has never effectually aided, still less stimulated to exertion, the large number of voluntary labourers who have shown themselves willing to give devoted efforts to this work. If only they could obtain sufficient pecuniary means to sustain schools for this class of children in due efficiency, they are ready to go to the highways and byeways, search them out, and invite them to come in, holding them there by the bonds of Christian love. Instead of welcoming such help to do for the country what the Lords' Committee could only recommend, and what no government machinery could possibly do, the educational grants of the country have been most unaccountably directed to help those abundantly who could well help themselves, and have not only ignored the very existence of this large portion of the population, but, until the present minutes have been passed, by their regulations have actually cut them off from receiving any direct educational help. They have built gigantic prisons, and spent annually enormous sums to maintain and control those who have been brought to this desperate condition by early neglect. They might, by spending a pound annually, in educating the child for a few years, have saved themselves the expense of maintaining him for many years in a convict prison, at a rate of more than forty pounds per annum.

Remonstrances and entreaties for suitable help have been frequently addressed, but in vain, to the Committee of Council on Education. The first reformatory conference at Birmingham in 1851, sent a strong memorial on the subject, setting forth the great need which existed, and the kind of help which was required. Frequent petitions have been sent to the Council to the same effect. Once, and once only, in June, 1856, was a minute issued specially adapted to the real wants of this class of schools, and calculated at the same time to stimulate to exertion. But, unfortunately, it was burdened with an allowance for food, which was evidently out of place in an educational grant, and which exposed it to great abuses. Hence, conditions were annexed which nullified its operations, and it was withdrawn before the end of the next year, another minute being substituted which gave no help, except for industrial work.

But the need of help was increasingly felt in the country. The Parliamentary Committee of 1852—1853, which was appointed to consider the condition of criminal and destitute children, reported strongly on the importance of directing to this class of schools special aid from the national grant; the resolution stated, that "great care was necessary in framing the minutes applicable to this description of schools, so as not to fetter private exertions, or to exclude men

eminently qualified to fill the laborious and difficult position of teachers, by the requirement of too high an educational certificate." The Minute of June, 1856, would have fully carried out this intention, but this being withdrawn, a third conference was held at Birmingham in January, 1861, founded on the principle, "That it is the duty of the state both as regards society in general, and each individual composing it, to provide education for those who cannot obtain it for themselves." The resolutions passed by this conference were supported by our noble president, Lord Brougham; by Lord Shaftesbury, whose name has always been foremost in all that concerns the education and elevation of this class of the community; Sir J. Pakington, who presided over the conference; Sir Stafford Northcote, and a number of noblemen and gentlemen whose position or professional duties led them to a deep conviction of the necessity of providing for the education of the perishing and dangerous classes. This was shortly followed by a parliamentary committee of inquiry into the subject, which elicited strong testimonies as to the wants of the class, and the need of suitable educational help.

But still the Committee of Council on Education turned a deaf ear to our reiterated entreaties for pecuniary assistance which should be adapted to the wants of this class, as the aid given to the National and British schools was adapted to theirs. The complete change introduced into the Revised Educational Code, rendered it expedient that we should suspend for a time our efforts to obtain aid for our schools, until we had given a fair trial to the effect of its provisions.

The present position of the question is this :—

The Government has not yet recognised the necessity of especially directing the educational grants of the country to the portion of the population which requires aid the most, and which has been proved unable to obtain it by voluntary effort only. Nor has the Government practically acknowledged the duty to society, nor the advantage to itself, of arresting the constantly increasing sources of crime, by the preventive measure of education of the class which chiefly supplies the criminal ranks. The Government has now, in the Revised Code, withdrawn the regulations which prevented the ragged schools from the possibility of receiving any portion of the aid given to other schools. But the regulations which are framed for a higher class of children, are necessarily quite unfitted for these. We willingly accept "results" as a fair test of the efficiency of a school, and its claim for aid, but we contend that the results to be justly required from schools for this class of children, are of a different kind from those expected from the higher class of the labouring population. If the results in the latter case are purely intellectual, those in the former should embrace, as recognised in the Minute of 1856, the moral and physical training of the children. There is, however, another and a greater obstacle to the possibility of ragged schools obtaining aid under the existing minutes. While the Revised Code bases its grants upon results, it requires (we must be allowed to say) with great inconsistency, that these results shall be obtained

only with a particular machinery, which it defines. It is not sufficient that a master shall have raised his scholars to the required standard, and conducted his school in a perfectly satisfactory manner; no grant will be awarded, unless he himself has gone through a prescribed course of training, and has undergone a certain examination which does indeed test the knowledge he possesses on certain subjects, but not his power of teaching, nor his moral influence. If this limitation is felt to be injurious in the higher schools, as is proved by the strong remonstrances on the subject made in Parliament, how much more must it be injurious in these schools, for which the certificated teachers rarely possess qualifications. The effect has already practically been to exclude excellent ragged schools from the small help they before received, and to leave others in their previous unaided condition.

Thus, the portion of the population most requiring educational aid, both for its own sake and for that of society in general, is practically excluded from receiving it from the Government of the country. The piety and benevolence of our ancestors left large endowments to help the poor and needy to obtain education; were these, greatly augmented as they are by the increased value of the property, to be now applied to the improvement of the class of children originally intended, and judiciously adapted to their existing wants, no poor child in the kingdom need be without education from want of pecuniary means, and were these provided, we know well from the experience of the last eighteen years, that abundance of voluntary Christian effort is ready to give the helping hand required to guide these children. But these endowments are now diverted into a very different channel, and aid the comparatively wealthy to obtain the luxuries of learning, while the poor and needy are without the simple elements of knowledge.

If these resources are withdrawn from the most needy, why does the department of government appointed to administer to the educational wants of the country, neglect this most important portion of the community? Its importance cannot be over-estimated, for it is the morally neglected children, cut off from the respectable portion of society as they are, from whom spring the pauperism and crime which so weigh on the community. These children are found everywhere, not only in crowded commercial towns, but they may be seen also in this ancient metropolitan city of York. Poor rural districts also remain equally unaided, thus swelling the amount of ignorance in the country, if not its actual crime. They all belong to the educational department of the country, and ought, under no circumstances, to be in any way associated with criminal legislation. It is cruel injustice to a child, because he is poor and neglected, to drag him down to pauperism by sending him, as has been suggested, to a workhouse school, or to give him an early association with the vagrant and semi-criminal class, who have been brought under magisterial sentence, by sending him to a certified industrial school. The children who freely go to a ragged school, from their

neglected condition, and also those who are sent under sentence to a certified industrial school, may all be raised to be self-supporting members of society, as experience has proved, but this must be done by totally different agencies. Earnestly would I again appeal for the influence and effort of this Association on behalf of those who are still the neglected and destitute children of Great Britain.

EDUCATION.

President.

His Grace the Archbishop of York.

Vice-Presidents.

Rev. Canon Hey, M.A. | Rev. John Kenrick, M.A.
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Rev. Nash Stephenson, M.A.	Rev. John Lees, M.A.
	Rev. George Rowe, M.A.

This Department deals with the various questions relating to Education whether of the upper, middle, or lower classes of Society.

SUMMARY OF PROCEEDINGS.

The following special questions were discussed in the Department:

1.—What improvements can be introduced into the present System of Public School Education?

2.—In what way can the Grammar and other Endowed Schools be made more available for the Education of the Middle-Class?

3.—What is the state of Education in Rural Districts and Small Town Populations? and how can the peculiar difficulties attending it be removed?

In addition to the papers printed in the foregoing pages, the following were read in the Department:—

"Archbishop Holgate's School." By the Rev. R. Daniel.

"The Present State of the Endowed Schools of the United Kingdom." By George Griffith.

"Statistics of Elementary Education in York." By Rev. T. Myers.

"On the Provision for Education in the Society of Friends in England." By John Ford.

"The Association of Lancashire and Cheshire Mechanics' Institutes: an account of its operations." By R. M. Pankhurst, LL.D.

"The Curriculum of a Reformatory." By Rev. I. Fish.

"On Art Education." By J. C. Swallow.

"On the Life and Training of Farm Boys after School Days." By Mary E. Simpson.

"The Education of Farm Servants." By Rev. F. Digby Legard.

"The Necessity and Facilities for a further Extension of the Factory Act, with special reference to the Half-Time System." By H. G. Earnshaw.

PUBLIC SCHOOL EDUCATION.

What Improvements can be introduced into the Present System of Public School Education?

The papers on this subject, by the Rev. David Melville, the Rev. D. Kennedy, and the Rev. Thomas Bissett, will be found at pp. 321, 344, 353.

DISCUSSION.

The Rev. Thos. Myers read a list of Eton men who had won the highest classical honours in both universities, from 1846 to 1864. While reading the list he explained, that the Craven University Scholarship was open to every resident undergraduate, and together with the "Batty" and others was so arranged that at least one of these should be vacant every year, and thus be open to competition by all the public and private school-men equally. This list, Mr. Myers said, shows that in thirteen years Eton men have won eight of these first-rate honours at Cambridge, and five similar ones at Oxford, besides gold medals and Hebrew and Greek Testament scholarships. I will not take up time by referring in detail to the college honours, scholarships, and fellowships, and high places in the classical examinations gained by Eton men. At both universities, Eton has obtained an honourable share of these in fair and open competition. In 1846, the senior wrangler was an Etonian, and many high wranglers have proceeded from Eton since that date, some of whom have become fellows of their colleges. From 1851 to 1864, there have been twenty-one Etonians wranglers at Cambridge. I hold in my hand, and could quote if it were necessary, an authentic list of the names of these Etonians, and of others who have vindicated the character of Eton for scholarship and distinction at Oxford and Cambridge. I think it right to state these facts on behalf of Eton, when so much is said as to Eton men being rather fond of boating, cricketing, and other pursuits; as they show that these masculine sports are by no means inimical to the pursuits of literature and science.

Sir Stafford Northcote, M.P.: There are one or two subjects referred to in the papers read on which I would be glad to make a few remarks. There was one point especially which was noticed both by Canon Melville and Dr. Kennedy, which seems to me to require some little explanation, and which lies very nearly at the root of the recommendations of the Public Schools Commissioners. I refer to one of the points which Dr. Kennedy especially picked out as a point at which he felt himself obliged to dissent from the recommendations of the Public Schools Commissioners; namely, the proposal to give authority to the governing bodies of the schools to direct to a certain extent the studies which should be pursued in the schools, and to determine the relative value which should be attached to different branches of study. And I think that in the paper of Canon Melville there was a remark somewhat to the same effect, that the report and recommendations of the Commissioners tended to take power out of the hands of the head-masters and place it in the hands of the governing bodies;

and I think that Canon Melville, as well as Dr. Kennedy, seemed to doubt whether that was a desirable course. Now with regard to that, it is a matter which lies very deep, and is worthy of very serious consideration. Of course a great deal that is contained in our recommendations in the report, as to comprising this or the other branch of instruction in the school course, are matters which we have put out with more or less unanimity upon particular points of detail, and which we have suggested for the consideration of the governing bodies of the schools. Nobody can imagine for a moment that either we desire or recommend, or that it is possible for the Legislature to attempt to enforce, anything like a strict system of instruction according to a certain principle that we laid down. But it is undoubtedly true that we have laid down as a principle that the governing bodies of the schools should have a voice, and the directing voice, in deciding the subjects which should be studied in the public schools; and it is highly probable that Parliament may be asked to legislate with a view to the reform and improvement of the governing bodies of some, at least, of the schools, and to the assigning to these bodies certain powers, one of which would be that of directing the studies of the schools. Now that was a question which was raised very early in our proceedings, and upon which we bestowed a great deal of thought, and upon which there was some difference of opinion at first, though I believe we all came to a tolerably unanimous conclusion at last—namely, as to how far the direction of the studies of the schools should be left to the unfettered discretion of the head-masters, or in the hands of the governing bodies. Now in the first place I must take exception to an expression of Canon Melville's which I think was to the effect that we proposed to transfer power from the head-master to the governing bodies in this respect. Certainly Dr. Kennedy, speaking of Shrewsbury, and Canon Melville, speaking with Shrewsbury in his eye, might very fairly speak of this proposal as something of the nature of a transfer from the head-master to the governing body; but they must allow me to remark that with regard to Eton and Winchester, and other public schools, it is not a question of transfer of power from the head-master to the governing body, but on the contrary, it is a limitation of the power of the governing body in matters in which they now exercise a despotic, and very minutely despotic control. Because it is not the case that the head-master of Eton or Winchester can decide what are the studies to be pursued at these schools. On the contrary the head-master at Eton is under the minute direction of the Provost and Fellows, especially the Provost. He cannot change a book, or the edition of a book; he cannot change an hour of the school time; he could not allow any improvement or any alteration whatever to be made in the course of school instruction without the distinct and formal authority of the Provost. And the same is the case at Winchester. The Warden of Winchester possessed, and I think still possesses the complete power of controlling the direction of the studies of Winchester. Well, the question comes to this, "Are you, in the first place, going to keep these governing bodies at Eton and Winchester in existence?" and if so, "Are you going to give them any powers?" or, "What powers are you going to take from them?" "Are you going to take from them the whole direction of the studies or not? Are you going to leave it entirely to the head-master? or are you going to place the power in any other hands?" Of course there was a natural disposition on the part of the Commissioners as far as possible to preserve what is in existence. We did not wish needlessly to revolutionise such ancient foundations as Eton and Winchester; and therefore our wish would be to preserve the College in these cases, and give the College a certain limited, definite power where now they have an absolute power. And for that purpose we suggested modes of improving the constitution of these governing bodies so as to render them more fit for the exercise of the power which they now exercise than they are at present. And at the same time it is to be borne in mind that we have put in a very specific recommendation that in all cases in which they are about to introduce regulations with regard to the course of instruction in the schools they shall be bound, not only to give the head-master an opportunity of saying anything he wishes to say, but to consult him and take his opinion in the fullest possible manner, so that his views may really be known. And then our idea was that these bodies being

responsible to public opinion—being composed of men who were in contact with the outer world, and who were not merely pedagogues and schoolmasters, but men who know the wants of society, having the advantage of the fullest remonstrances and representations of the head-master, would be able best to judge what, upon the whole, should or should not be done; and that they should form a council and a body who should be the protectors of the head-master in these matters, because it is not to be supposed that the head-master and governing bodies would be at issue on questions of principle, if the head-master were fit for his position, and the governing body were fit for their position. It is not to be supposed that they would ultimately come to any such collision as that the governing body would be obliged to impose, as a matter of authority, on the schoolmaster a course of instruction from which he dissented: but rather that, taking counsel with him, and ascertaining from negotiation with him what was really possible, as well as what they knew was desirable, they should ascertain what course should be pursued; and that they should be the protectors of the master against the outer world, at the same time that they should represent from the outer world to him what was desirable should be taught in school. Allow me just to refer—and in what I say I do not wish to reflect upon the governors of the school—as an instance of the necessity of something of this kind, to what has taken place at Winchester. Winchester was, to a certain extent, made the subject of an inquiry on the part of the Oxford University Commissioners, and they recommended that certain alterations should be made in the course of study there, much as we have done in other schools; and they recommended, amongst other things, that natural science should be taught. Well, that was left to the management of the Warden and of the head-master. I will not trouble the meeting by going over the details of the arrangement, but if any one will take the trouble to read the evidence which bears on that part of the subject, they will see that that recommendation of the Oxford University Commissioners was entirely evaded by the manner in which it was put into operation by the Warden and head-master, who each threw the blame upon the other, and until we began to inquire into the matter, that recommendation of the University Commissioners had become an entirely dead letter. Now, what we felt was this, that if you were to say that the head-master in each school should be the directing authority in all matters of education, any recommendations that we might make as to the introduction of new subjects of study, or the giving of greater importance to subjects of study which had been introduced as comparatively subordinate, might be entirely defeated by the reluctance on the part of the head-masters to adopt them. Now the head-masters of the schools are very important persons—they are gentlemen of whom I wish to speak with the highest respect, as I am bound to do: but many of them are comparatively young men, who may be expected to hold their appointments for a considerable time—some of them have held their appointments for a length of time, and are wedded to a particular system; and if we were to say that the head-master should have the power of directing the studies, it is not to be supposed that any of our recommendations as to new studies would have the slightest effect when the head-master was opposed to them. Therefore it was necessary to bring some instrumentality to bear upon the head-master in order to get the work done we should wish to see done; and to whom could we look but to the governing bodies of the schools? After all, what could be more proper than that the governing bodies of the schools should be the trustees of the money given in former times for the promotion of education? What could be more proper than that the trustees should see that the objects of the trust were properly accomplished? They are the people who are responsible, and upon them lies the obligation of appointing and, if necessary, of dismissing the head-master. In most of these cases in the old foundations the head-master must be appointed by the governing body, and may be removed by them: but removal is an extreme case, and it is a thing which is so severe that you cannot look to it as a remedy that the governing body should dismiss the schoolmaster. That is not what you want. You want an intermediate position between one in which the head-master is to be absolute, and one in which the governing body should dismiss him. You want some arrangement by virtue of which the governing body could interfere

with some authority in the details of what is going on. And if your governing bodies are properly constituted, I believe that is the true method of dealing with and meeting the case. But remember that while we give the governing body the power and right to deal with all these matters, we do most distinctly reserve to the head-master that which he has in such schools as Harrow and Rugby, but that which he has not at Eton and Winchester—a complete control over the details of the schools—the details of the classes, arranging the hours of classes, and so forth; and that we also provide for a complete consultation between him and the governing bodies. I have dwelt rather at length upon that point, and I have picked it out because it appears to me to lie at the root of all the difficulties suggested. We have made recommendations which are, of course, open to a good deal of criticism. It is perfectly possible to say that the schemes of instruction which we have recommended are such as it is impossible to carry into effect. I do not myself think they are impossible to carry into effect. I think myself that, with proper methods of teaching, economy of time, a proper number of masters, and with good-will and co-operation on the part of the governing bodies and the masters, generally speaking our recommendations may very well be carried into effect without overtasking the boys, or sacrificing anything that is important. But at the same time we are perfectly conscious that these are matters in which persons practically engaged must decide—we are conscious that what is practicable in one school will not be practicable in another; and that there may be differences in the mode in which our recommendations will be carried into effect. What we hope to secure—and what I hope Parliament will enable us to secure—is a thoroughly good constitution of the governing bodies, and the placing in the hands of those bodies such powers as are necessary. And then I believe there will be harmony between them and the masters, and that the masters acting with zeal and energy, will be able to do a good deal in that way. There was another point which was touched upon to which I will only allude, because I know it has created some uneasiness among head-masters—I mean what is called the school council, in which the assistant-masters are to take some share with the head-masters in discussing the affairs of the school. Canon Melville was perfectly right in pointing out that the inquiry, though it had reference to all the nine schools, and through them to public education generally in England, was to a very great extent suggested by the complaints which had been made, and questions that had been raised in regard to one in particular—that is to say in regard to Eton. Now in Eton one of the points we found particularly complained of, especially by the assistant-masters, was that they were not consulted as they thought they ought to be in the matter of the direction of the school. And when we know what Eton is—that it is not only one great school but a conglomeration of what you may almost call separate schools under one head,—when you consider that parents send their children not so much to Eton as to Mr. A. and Mr. B. because they have confidence in Mr. A. and Mr. B.: and that if they could not get Mr. A. and Mr. B. they would not send their children to Eton at all, but to Rugby or somewhere else—I think it is fair to allow Mr. A. and Mr. B. to consult with the head-master, and to offer him their advice. I think that fair: and not only is it fair, but by the testimony of other schools it is really necessary. It is done at Shrewsbury, and Dr. Kennedy says it is essential there, and that he could not go on without it. He calls the masters together once a week. It is done at Harrow, where Mr. Butler has his conferences with the masters. It is done at Rugby almost invariably; and I believe there have been times within the last two or three head-masters of Rugby, when the system was dropped, and it was found that the school did not work so well when the masters were not called together. All we proposed was that in some way or another that want which has been felt and remedied in other schools should be remedied at Eton. I admit that the term school council gives a somewhat false notion of what is really meant. It would be a question for the governing body, acting as men of the world, and knowing the feelings of men, so to manage the arrangements of the school as to put the relations between the head-master and the assistants upon such a footing as that the assistants will really be consulted on matters on which they can give proper advice, and yet not be allowed

to interfere with the proper authority of the head-master. If we have put the thing a little more formally than it should be put by calling it a school council, I would say, "Don't be alarmed; it won't go into an Act of Parliament. It is merely a suggestion for the governing bodies to consider. What will be called for in one place may not be called for in another. We merely wish that there should be some manner of consulting the assistant-masters, and that is more desirable at Eton than in smaller schools." I must apologise for not going into other points which I intended to refer to, but I think these are the most important points.

Dr. Hodgson: The papers that have been read in connection with the report of the Commissioners suggest so many subjects for discussion that it would be very unadvisable to attempt them all to-day, even though we had more time. I rise for the purpose of entering my protest, briefly but earnestly, against the principle involved in the remarks of Mr. Myers in reference to the number of honours gained by pupils from Eton at the Universities during a number of years. No one is so ignorant or so foolish as to pretend that Eton is incapable of producing good scholars, or that Eton has not produced a very considerable number of good scholars; but to offer such a list as we have heard to-day, seems to me —not intentionally but virtually—to withdraw the attention of the public from the great question at issue, which is, not whether this or that school is capable of turning out a certain number of gentlemanly or well-drilled young men? but "What is the state of mind, of attainment, of knowledge, and of disposition, in which the great mass of the boys are found who are subjected to the discipline and education of that school?" Now I think all present will agree with me that it would be a most extraordinary thing if a school like Eton, with an income of £14,000 a-year, and a large staff of high-paid, and no doubt, for their peculiar office, very well qualified masters, should fail to turn out a very considerable number of good pupils. The principle involved in the remarks to which I am referring is, I think, a faulty one; and I was reminded, in the course of the remarks which contained this principle, of "Jerome Paturol" and his account of a school in France which was conducted on this principle, that during the vacation the proprietor of the school visited other schools in the country for the purpose of ascertaining whether any particularly clever boy could be found, especially if his parents were poor. If he found such a boy he addressed himself to the parents and offered to give their child instruction if he were allowed to make his own experiments in teaching the boy. He got a number of boys on these terms, and they were all collected in the central school, and there they were subjected to a different discipline in each case, one boy being kept close at the study of Greek verse, another at Greek prose, a third at Latin prose, and a fourth at Latin verse. At the end of the period of study the works of these boys were all paraded in their several departments as an evidence of the general condition of the school; and the immense progress which one boy had made in one particular subject, was not unnaturally but falsely looked upon as if it were an evidence of the general position of the school. There is another point which involves the same principle as that which I have remarked upon, and it is one which is frequently referred to in conversation. Nothing is more frequent than to hear it said, as an evidence of the great utility of our public schools, that they have produced such and such great men—Peel, Gladstone, and others. Now what I have said already applies also to that mode of reasoning. It would be exceedingly extraordinary if a large number of public schools, constituted as these are, and having the very flower of the youth of our country to operate upon, should fail to turn out good men. But the fact that these men were educated there is by no means a proof that the principles and discipline in operation have produced these men. It is simply an evidence of the system of discipline having failed to prevent these men becoming eminent. I do not mean to say that those institutions have not contributed to make these men eminent; but I say that what I have now stated is all that the logical argument compels one to admit. I would beg leave to quote here an anecdote of Mr. Charles Landseer in illustration of my remarks. This artist was one day engaged in a discussion, and his antagonist in the argument enumerated a great many men whom the public schools had produced, and among others he mentioned Byron, and said, "Byron was a Harrow boy."

"Yes," said Landseer, "that is true; but Burns was a ploughboy." That anecdote illustrates my principle, that there can be no school, even the school of the plough or farm service, which can prevent genius from developing itself—can prevent great men from being formed.

Rev. T. Myers: I did not wish to infer that Eton was better than any other school; but I just wished to show that Eton pupils were not worse than those from other schools, because it is open to every public school to send their best men, and all I said was this, that when Harrow, Rugby, Shrewsbury, and all England sent their men up to the competition, Eton won over and over again.

Sir John Pakington, M.P.: My principal object in rising is to take this first public opportunity which I happen to have had of expressing the extreme satisfaction with which I, as one of the public, have read the Report of the Commissioners on Public School Education. My honourable friend, Sir Stafford Northcote, who has just addressed this meeting, was one of those Commissioners. He has very naturally alluded, in what fell from him, to two points which were touched upon in the able paper of my reverend friend, Canon Melville; and also in the paper by Dr. Kennedy. The first of those questions was whether the guidance and arrangement of the studies of the school should be in the hands of the governing body, or should be exclusively in the hands of the head-master. I must say that I have hitherto inclined very much to the views which were expressed by both of those reverend gentlemen, and thought that perhaps the wiser policy in those great schools would be cordially to select an able master, place entire confidence in that master, let him guide the studies of the school, and if he failed in his duties, exchange him for another. But in candour I must admit that the explanation given by my honourable friend, Sir Stafford Northcote, to-day has very much shaken me in that opinion. Upon the other point to which Sir Stafford Northcote alluded, namely, whether it is desirable that the assistant-masters of a school should be authorised to act as a sort of recognised council to advise the head-master—speaking, of course, subject to receiving any further information upon this point—I incline very much to the opinion that it would be unwise to give them any such authority. I think it would be most desirable that the head-master of a great school should from time to time consult with those with whom he acts; but I should very much doubt the wisdom of making it compulsory upon him to do so. But I will not pursue these points further; for really the main object for which I rose was to give utterance to the anxious desire I feel that that Report should be fully studied throughout England; that the gentlemen of England should make themselves acquainted with its spirit and recommendations. I will not pledge myself to approve in detail of all these recommendations; especially as to the governing bodies; but I will say that that Report contains recommendations well worthy of attention; and I do most earnestly hope that it will produce most valuable fruit. None of the public schools of England, and more especially that great public school of Eton, can afford to disregard the contents of that book. We have all constantly heard it boasted, "Well, if Eton does not produce any great number of first-rate scholars, at all events it makes gentlemen, and it impresses upon the minds of the young gentry of England a love of those manly habits which constitute the national character." I must say that I never attached the slightest weight to either of these statements. I believe that the sons of English gentlemen will grow up English gentlemen, send them to what school you will. And as to the question of manly habits, and the Anglo-Saxon character, of which we are all proud in this nation, it has no more to do with Eton than with any parish school in the country. There is not a parish in England where you will not find cricket; there is not a village green where it is not played; there is not a market town where you have not a cricket club. And as to the habits and character of Englishmen, I believe they have much more to do with the moulding of the habits and the character of our schoolboys, than the habits of our schoolboys have to do with moulding the character of Englishmen. But even were it otherwise—even were it true that the boys by going to Eton acquire these manly habits, and become addicted to these manly sports—is there any reasonable ground in the world why, conjointly with these advantages, you should not combine a system which may teach them that which every gentleman ought to know? I can imagine no satisfactory reason that can be given in

answer to that question. After having carefully perused the evidence contained in the valuable Report of the Commissioners I must boldly avow my opinion that these public schools of England have not been hitherto what, considering all the circumstances of the case, they ought to have been—what they ought to be—and what I earnestly hope, now that public attention has been fully directed to the subject, we may reasonably expect them to be made.

Mr. DENT, M.P.: I have read the evidence given before the Commissioners on Public Schools, with a good deal of sorrow, and I may say also with a good deal of hope. I read it with sorrow because it showed that Eton was not now in that position in the world of scholarship which it had in former days. In the list of honours read by the Rev. Thomas Myers as having been gained by Etonians at the universities, I find that of the classical honours gained during the last fourteen years twenty-seven have been gained by collegers and eight have been gained by oppidans. It is twenty years since I left Eton, and I must say that that was not the state of things in that day, because I think that at that time the oppidans carried off their full share of honours. To what are we to attribute that change? I think that it is partly to be attributed to the foundation having been thrown open to public competition. It was formerly considered to some extent discreditable to be a colleger, but that has been changed since the system of public competition was instituted. I acknowledge, with all the other speakers, that I do not think Eton has done her duty in preparing the youth of England for their positions in life. When you look to the names of the men of middle age in the present day, a feeling of regret arises in the mind that the young men of Eton are not now holding their own in the way their predecessors did; and I attribute this very much to what I may call the family cliqueism and family system of Eton. There seems to be a feeling there that nobody but an Etonian should be an Etonian master; and the governor of the college and the greater proportion of the masters are bound by family alliances. In fact they seem to imagine that nobody knows how to teach at Eton except a particular set. I think an improvement on that state of things commenced with the last head-master, and hoped it would be carried on by Mr. Bolstan; but I was greatly disappointed in his evidence. Then there is the immense extent of Eton—it has overgrown itself and it is overwhelmed with the work which is required for the education of so large a number of boys. The masters cannot devote themselves to individual scholars, and that is the great reason why scholarship is deficient at Eton. But I must protest against the idea being entertained that there has been any falling off in the moral tone of Eton. I don't believe a word of the statements which have been made to the effect that the moral tone of Eton has fallen off of late years. I believe its moral tone was never better, perhaps was never so good as it is now; and I could point to evidence laid before the Commissioners, in support of the belief. With respect to the scholarship of Eton, however, I think there is a lamentable deficiency on the part of the oppidans. I think the Royal Commissioners have thrown out most valuable suggestions in their Report, especially with regard to the governing body of the college. I cannot but think that the introduction of men of the world, conversant with the wants and feelings of the outer world, to give advice to the masters, will be attended with valuable results.

Rev. Canon TREVOR: I cannot allow this debate to conclude without adverting to a topic which has been very imperfectly treated in the papers which were read and which has not been referred to in the discussion. Our discussion has turned almost entirely upon the nature of the education, and the qualifications of the masters in the different public schools. As I never enjoyed the privilege of being a public school boy, or of taking any part in the work of tuition, I have not felt myself qualified to offer any opinion upon that subject; but it has struck me very forcibly as I listened to the valuable observations made, that one point seems to be taken for granted which seems to be open to considerable question. It was, perhaps, not unnaturally thought by the gentlemen who have spoken, that schools were founded for the purpose of teaching; but I doubt very seriously whether learning is the object of the larger portion of the parents in sending their children to public schools. What strikes me is that those who go to public schools with the intention and desire to acquire classical literature, do acquire it, and acquire it soundly; but that the large number of children who are sent to the school

with no such object in view, whose parents have no desire that they should acquire learning, and who feel within themselves no incentives to do so—that those pass through the school and carry from it just what their parents expected, and paid their money to obtain. I am quite ready to admit that that was not the reason for which public schools were founded. I have found a very great difference, in the course of my life, between those educated at public schools, and those who have not had that privilege. I have been, both abroad and at home, thrown into company with great numbers of gentlemen of various professions; and I must say that, with few exceptions, I have uniformly found that those gentlemen in the army and civil service of India, and in the civil and public services at home, who had enjoyed the benefit of an education in the public schools, have been in a very marked manner distinguished, notwithstanding their origin, for gentlemanly feeling and bearing, from those who have not had the same advantages. I do not doubt that in private schools literature is often highly cultivated, but I have not the slightest doubt that a very considerable amount of that which distinguishes the character of English gentlemen is imparted in the public schools under the present system, however defective it may be. And I cannot accept, therefore, the dictum which I have heard two or three times repeated, notwithstanding I believe that it is found in evidence in the Report of the Royal Commissioners, that the larger portion of the boys leave Eton, or any other public school, totally ignorant of all an English gentleman ought to know. If they do, I want to know where it is that the English gentlemen acquire what they ought to know; because in my intercourse with them I do not find them thus ignorant. I do not find the magistracy, the officers of the army, or the gentlemen in the public services ignorant—I ought rather to say I find the very reverse. I find them remarkably well acquainted, as a general rule, with those things which an English gentleman is expected to know. And if they don't acquire their learning at the public schools to which they are sent, and at the universities, to which the public schools direct them, then it does seem to me that there is some celestial influence that descends upon an English gentleman to qualify him in a very remarkable manner for the station which he occupies in the world. But the subject to which I wish to draw the attention of the meeting, and which has been omitted from the Report of the Commissioners very much, and from the discussion at this meeting, is the amount of payment required from the parents in the public schools under the present system. I think a large portion of the difficulty we are speaking of dwells there. I think that in exacting the large sums which are now necessary to maintain a boy at a public school, you have been transferring the benefit of the endowments from the class for whom they were intended, and by whom they would have been exercised for the purpose of acquiring literary knowledge—you have been transferring them from the class of poor, earnest, striving scholars, to the class of the wealthy and noble inhabitants of this country. And if the great endowed schools are to be monopolised, as under the present system they are monopolised, and as, for anything I can see, under the recommendations of the Commissioners they would still continue, perhaps in a larger degree, to be monopolised—if the great foundation schools are to become the property of the wealthy classes—then I do not believe you will be able, by any system of education, to make them turn out boys better acquainted with classical literature than they do at present, because the great incentive to the study of the dead languages—the great incentive to proficiency in literature—the motive to overcome the drudgery and hard work, without which it is impossible to have a sound knowledge either of mathematics or classics—the great incentive is that a man is to get his living by it. Undoubtedly there are exceptions to the rule. There are noblemen and gentlemen, spurred by that innate spirit and love of literature and science which is inherent in great minds, who do, for the very love and pleasure of the scholarship, devote themselves to the work and conquer the difficulties; but as a general rule you will not get large proportions of school children cultivating earnestly knowledge, and encountering the difficulties which are necessary to its attainment, unless they have behind them the great impulse of necessity; unless they belong to those classes with whom it is a necessity to be well and soundly educated, because through their literary proficiency they hope to advance their fortunes in life, and it may be to

make their subsistence. Now I believe our endowed schools were founded for the express benefit of these particular classes. I do not believe that in any instance it was present to the mind either of monarch, bishop, nobleman, or private person who left his property for the purpose of founding a school, that that school should become a place of education for the wealthy and noble of the land. On the contrary we know from the testimony of history, and from their own statements in their charters and deeds of trust, that their special object was to encourage the poor scholar. We know that their special object was to provide a cheap, and it might be even gratuitous, education for those who, without that assistance, would not be able to attain to the ranks of scholars, but might be in danger, though the children of scholars, of descending to the class of mechanics. All our public schools were founded for that purpose. I am astonished that the Royal Commissioners should have given so little attention to that most important part of the duty entrusted to them to discharge. In what condition do we find ourselves? Why, we see great public schools, the endowments of which have increased to such an extent that the head-masters are living with the incomes of bishops, and where the school is most assisted by public money the cost to the parent is still the highest. And to such an extent is that carried that we have actually seen in our own day a school, which at the present moment is second to none other in the kingdom, established without any endowment whatever for the express purpose of granting a classical education at a moderate price to the sons of the clergy and poorer middle classes—I allude to the school at Marlborough. That school has been established in our own day without a shilling of endowment for the purpose of bestowing that cheap education for which the endowments of Eton and the other public schools were originally intended, and solely intended, to provide. I have had myself two sons educated at Marlborough College—I have had one son who had the great good fortune to obtain a place at the competition at Westminster. At Westminster, according to the charter and public profession, he ought to have been educated gratuitously; but in point of fact the education of the one boy who obtained a place on the ancient foundation cost me as much as that of the two boys that went to Marlborough, a college established without any assistance from the public funds. Was the education better? I cannot say so. Was the school larger in numbers? Far smaller. Was the reputation of Dr. Cotton, then the head-master of Marlborough, inferior to that of the gentlemen who were kind enough to superintend my son's education at Westminster? No. In every manner in which the value of the article could be appreciated I obtained at Marlborough education at one-half the price at which I obtained it at Westminster, even with the benefit of the public money at Westminster. Now when such is the state of things, and when a Commission is appointed to consider the state of our public schools, it is certainly remarkable that they should have passed over so tenderly this striking abuse or diversion of the original endowments, and that all their recommendations should go to a state of things which would still maintain the endowed schools as the special privilege of the wealthy classes, and compel the poorer classes to throw themselves upon non-endowed schools. There is a solecism, one would almost think, in the very expression of the terms. I am aware that in one portion, with respect to the school I named, there has been a recommendation in the Commissioners' Report to make the terms of the foundation more what they should have been, according to the original constitution. But I do not violate any confidence when I say that in conversation with a dignitary who has a very important office in that institution I was expressly told that the governors of that school conceived that making this foundation free, would admit into it a class of persons whom it would not be desirable that the other boys should associate with. So that we have this base, sordid, mean notion of a mock gentility, set up to deprive the classes who need it of the benefit of the foundation which, by law, justice, and right, should be confined to them, and not thrown open to the wealthier and nobler classes. The evil of which I am now speaking has been extended to our university endowments. There has been a general disposition on the part of the public, and on the part of many of the reformers, to take up the question of the endowment to convert it from its original object of helping the poor scholar into a literary distinction, to the purpose of helping instead the wealthy class

to pursue this purpose. And so the scholarships at the university, which once were the means of eking out the small incomes of struggling scholars, or the means of serving the church by eking out paltry benefices or the small stipends of struggling curacies, have all now been taken away from the purpose for which their founders left them in order to be converted into marks of distinction and honour, which would induce persons who do not want them, and to whom the money is no object, to compete for them, and wear them as feathers in their cap. I think that is a great perversion of the principle of scholastic endowment—a great departure from law and justice; and I think that to it we may attribute that general state of inefficiency which has been complained of, but which I do not admit exists to the extent to which some have affirmed. So long as the schools are kept from the classes who would make a proper use of them, and are by this system of large payment monopolised by the classes who are not under obligation to cultivate science and literature, so long you will not be able to turn out a larger number of scholars under any system of education than at present. My friend, Mr. Dent, referred to the fact that at Eton, the college, which was originally under the nomination system, and which was intended for and was given by nomination to persons in the lower orders of life, for the purpose of helping them forward, and which was, therefore, very naturally and properly looked down upon by the wealthy oppidan who did not require that assistance—was now open to the wealthy, who in consequence had taken possession of endowments which were meant for the sons of the poor clergy, and for the poorer members of the professional classes. By means of this paltry college endowment and their large income they are enabled to obtain the benefits of private tuition, and they have been able to obtain more honours from the university and raise the scholastic character of the colleges. But in so doing they have departed from the principle on which the college was established; they have done a serious injury to the cause of literature and scholarship; and they have inflicted an injury on the middle classes which before long will be reconsidered in order that a remedy may be found for it.

Rev. David Melville: With reference to the remarks of Sir Stafford Northcote on the subject of the direction of the studies being given to the governing bodies, they only served to show more strongly the anomalous position occupied by Eton and Winchester in regard to this particular matter. With reference to the remarks made by Sir Stafford Northcote as to the proposed school council, his own acuteness would suggest the answer, that it is not necessary to interfere with other public schools, simply because, on account of the great size of Eton, there is no communication at that institution between the head-master and the assistant-masters. The proper remedy would rather seem to be to place matters on a right footing at Eton, than to introduce a new state of things elsewhere, simply because at Eton some change is necessary on account of its size.

Sir Stafford Northcote: I think I have been misunderstood. I did not say that because of the size of Eton it would be necessary to enforce a school council there, although it was not necessary elsewhere. What I said was, that practically, there was a school council elsewhere, and not at Eton. I said there was no form of communication at Eton between the head-master and the assistants, and that that was felt the more on account of the size of the school. If you look at the evidence you will see that there are cases stated in which the masters wished to represent to the head-master their views as to the use of the books; but they had no opportunity of doing so, and the head-master refused to hear them, because they had no right to interfere in the matter. Now what we propose is, that there should be a regular communication established between the head-master of the school and his assistants. The object of the proposal is simply to give the assistants the right of going to the head-master to state their views on any subject connected with the work in their classes. They have not that right at present, and they cannot go even to the governing body. Under the present system, the assistant-masters are nobody, they are merely lieutenants; they have not the right of going to the head-masters. That is a state of matters which the Commissioners think it is necessary to remedy, and they think it might without difficulty be remedied in some such manner as that suggested in their Report.

MIDDLE-CLASS EDUCATION.*

"In what way can the Grammar and other Endowed Schools be made more available for the Education of the Middle Class?"

In addition to the papers on this question by the Rev. Canon Hey, the Rev. Canon Robinson, and Mr. Fitch, printed at pp. 360, 367, 380.

Mr. George Griffith read a paper, of which the following is a condensation:—

The education of the sons of the opulent is too often given at the expense of endowments bequeathed for the benefit of the middle and working-classes, and this is more the case where the endowment is large than where it is small.

The founder of Christ's Hospital, Edward VI., designated it to be for the benefit of "poor fatherless and motherless children, and sick, sore, and impotent people." The present income is about £6,400, and the Treasurer, when giving his evidence before the Education Commission of 1861, stated that "the regulations provide that no child be admitted who has any adequate means of being maintained and educated," yet, "that numbers of children during the last twenty or twenty-five years have been admitted whose parents' incomes exceeded £400, and in some cases £500 per annum.

The founder of Charter House School (Thomas Sutton, in 1611) ordered "the governors and their successors from tyme to tyme, and at all tymes hereafter, to place therein such numbers of poor children as to them shall seem convenient, and that the number should be increased in due proportion as the revenues increased." The first number of foundation boys (40) is still adhered to, though the income is upwards of £50,000; and though there are eight schoolmasters and 180 boarders.

These evils arise in a great measure from nominating governors, who from their high rank or other reasons do not watch over the interests of the school. The system is spread over the whole country, as witness the schools of Shrewsbury, Bromsgrove, Repton, Birmingham, and others.

As a remedy Mr. Griffith proposed that an Act should be passed for the election of the trustees of endowed schools by the ratepayers in the same way and over the same areas as in the election of boards of guardians for the poor; except that the trustees should be elected biennially or triennially instead of annually. By this means the intentions of the founders would be more fully carried out; the absorption of extravagant salaries for small duties would be checked; the sons of the opulent would not be admitted; the masters would be elected on the ground of their ability to teach useful studies; and the

* See *Transactions*, 1863, p. 361.

exhibitions and prizes would be conferred on the sons of those who are unable to pay for a university education. By this means, also, portions of large endowments in small populations could be conferred on adjoining parishes devoid of such benefactions; sites of schools abandoned by population might be exchanged for others more convenient; two or more foundations, doing little or no good separately, might be amalgamated, and the admission of boarders might be regulated by the amount of endowment. The present Charity Commissioners might preside over these Union Boards of Charity Trustees as a board of appeal and advice, and to receive their accounts and statistics half-yearly. The principle of electing trustees by vote is advocated, as to another class of schools, by Dr. Temple, of Rugby, who recommended to the Education Commission of 1861, that the parents of children attending the lower class schools, and paying 2*d.* a week, should have a right to vote in the election of the school committee. There would probably be these further advantages, that the charity trustees would be resident; that they would do their business with open doors; that the masterships would be thrown open to laymen, and that the education would be adapted to the wants of the place and the scholars. Mr. Griffith also pointed out that such a reform is still more needed in Ireland, where the total amount of revenues of endowed schools is £76,463, and where there are 296 endowments with an income of £7,000 not put to any use. A commission of inquiry was issued in 1854, and a report published in 1858, which made the following recommendations:—free admission of scholars; alteration of educational system; removal of schools from non-populated to populated places: public visitation and inspection; competitive examination of scholars; a public office for the registration of all school deeds; an audit board in Dublin, and a periodical report to the Lord Lieutenant. Mr. Griffith stated that none of these alterations have been as yet carried out.

The Rev. R. Daniel contributed an account of Archbishop Holgate's School, as a type of a restored endowment. This Grammar School was founded in the reign of Henry VIII., with a very small endowment. It recently came into the Court of Chancery, with a poor income from property badly managed, and with the school-house in a state of disrepair. An order was made for a new school-house, the property was released, and a scheme was drawn up for the management of the school, with special reference to the wants of the middle classes. Under the new scheme, "particular attention is paid to subjects whereby young men may be prepared for trade and agricultural, and commercial pursuits." As now restored, this small endowment is the foundation of a flourishing and successful middle-class school.

DISCUSSION.

Mr. H. Stephen Thompson, M.P.: One of the greatest difficulties meets us at the outset of this question. It is that parents have not the means, or are not

able to form a really good judgment on the quality of the education which their children are receiving. The middle classes do not come to us and say, "Our education is defective, wiil you help us to improve it?" We have to deal with those who are not fully sensible of the defects of the education we are setting about to improve. There is another difficulty, namely that the means of the class who are specially in want of improved education, will not admit of large payments to the schools. It has been truly said this morning that the schoolmaster and the school are identical; that the schoolmaster is the school. We must therefore bring into this profession men of intelligence, high education, and high character. Such men can find remunerative employment in any line of life, and they will not undertake to manage schools as a private speculation, unless they can see their way to making a handsome income out of them. The Rev. Canon Hey showed us the necessity of drawing some line of distinction between different portions of the middle classes. I agree with him that it is hopeless to endeavour to educate the middle classes in one school. Take for instance the agricultural classes, with whom I am best acquainted. They are generally put down in a lump, but I know some who are strictly tenant farmers, who occupy some thousands of acres, and who have £50,000 or £60,000 of capital embarked in their calling; and at the other end men who occupy a few acres which they cultivate entirely by their own labour. Is it possible to include in one class those who mix in the highest ranks of life, and those who can hardly be separated from the labourer? The only satisfactory description of the middle ranks is a class who can afford to pay a certain annual sum for the education of their children. This avoids all invidious selection. There can be no omission, for it is open to everyone to make the payment if they can. The upper portion of the middle classes are able to make large payments to private schools managed by men of great eminence and high character. Those who can afford to send their sons to such schools are not in need of any kind of assistance. Therefore we must deal with what may be called the lower portion of the middle classes. With individual exceptions, they have no schools to which they can send their children with a fair expectation of receiving a reasonably good education. I now come to the question of payment. Canon Robinson has stated the minimum of £22, but I differ from him to some little extent on this point. I think he has fixed the amount too low, and I would say £30 rather than £22. One very strong reason which makes me think £30 is not higher than could be paid by a large portion of the middle classes, is that in France, where certainly the means of the class are not equal to those of our own middle class, they pay readily a minimum of £32 at their great public schools, often rising to £48 as a maximum, if they choose to avail themselves of additional tuition in certain branches. I think the suggestion of Canon Robinson is extremely valuable, that the minimum payment should secure a good average education, having a certain number of voluntary extras, in certain branches of science, if desired, for which additional payment should be made. Reverting for a moment to agricultural schools, at the present day, with the great improvements in agricultural implements and machinery, it is very important that farmers should have some knowledge of the elementary principles of chemistry, that their sons should have the opportunity of attending chemical lectures, and that they should also become acquainted with the elementary principles of mechanics. I believe that £30 could be paid by this class, and I do not think we could do with less if it is proposed that the institutions should be self-supporting and so satisfactory to those who are to avail themselves of them. The next question is how are these schools to be got up. Are they, in the first place, to be public or private schools? Public schools are those constituted for public purposes, and private schools those constituted for the emolument of those who found them. It is most important that the great middle schools should be public schools, first because you would have a guarantee to the middle-classes that they should be managed for public purposes, and that the property should be vested in those in whom from their station and character they have confidence, and next that the boys would have the advantage of a public school education, which for the formation of character, is of the highest importance. Well, if there are to be public schools, we must have a board of trustees in whom the property is vested, and considerable funds at the

outset for bringing the schools through that time of trial which is always encountered in the setting-up. Even if new buildings are not to be erected, some one must be guarantee for the rent of the building, and also for the funds necessary to carry on the school till it be fairly established. The old endowments have been pointed to as the most available and most proper source for meeting these difficulties, and I fully concur in that: and the royal commission which is about to be issued gives an opportunity of inquiring whether any of these endowments are available, or what institutions may be, with some remodelling, left to carry out the intentions of the original founder. In issuing the commission it is of the greatest importance that the scope of the inquiry should not be in any way restricted, but that they should have the fullest powers of reporting on the whole subject; and I trust when they present their report to Parliament—as it will, doubtless, be made the basis of legislative action—that they will give to the commissioners the fullest power of dealing with those old charities, power not only of remodelling but of abolishing the trust. If they attempt to remodel only, I am perfectly certain that they will meet with local difficulties and opposition and will be able to do very little good. They must, in my opinion, have the power of abolishing trusts and placing the revenues to an endowment fund to be used for the benefit of the nation. Is this too radical a reform, too great an interference with the original intentions of the founders as expressed in the old wills and charters? I think not. If we examine into these we shall find that many of them are not being carried out and never have been carried out according to the founder's intention from the time of their institution. There are many others which if they were so carried out would be totally incompatible with the spirit and wants of the present age. These endowments were, in general, given for the education of the poor—of those who were most in want of that assistance; but at present it is not the poorest classes who are in want of assistance. Our elementary schools have been so much improved that they are really in the main better than those for the poorer portion of the middle-classes. And therefore, to carry out the real intentions of the founders of these charities, I believe we could do no better than suppress them in their present form and put them into a form which would be more effective for the education of the middle-classes. As to the character of the schools, I think we must have both day schools and boarding schools, and I think it would be of the greatest use if they combined both in one establishment. That is the case in large numbers of our schools. Even in Eton there are some few pupils who attend as day scholars. Then, if we succeed in getting up these schools, how are they to be made effective? How are we to guarantee their continued efficiency? I think it clearly must be done by inspection, and that at once raises the question, of what kind is that inspection to be? Is it to be in the shape of examinations conducted by universities, or is it to extend to the actual local inspection of the schools? The system of inspection hitherto has been to select samples of the boys instead of examining them in bulk. It is clear there is a great temptation to use local examinations as advertisements. A few clever boys, like samples of cattle and pigs fattened for the occasion, sent to win prizes at a local show, act as a good advertisement for their schools, and there is therefore a temptation to confine the attention to these clever boys. But if you propose to extend it to the whole schools, the question then arises whether you can give the university authority to inspect them. I conceive that however capable university examiners might be in point of literary ability, they are totally wanting in that authority and responsibility to the country which we should have if the inspection of the schools were carried on by Government inspectors. My ideas are that we should best carry out a system of middle-class education by the establishment of a board composed of men of high character and station, who would be a guarantee for the quality of the education and the general tone of each school, and who should fix the proper school payment for the boys admitted; that you should have the masters well paid, and that you should give them by a capitation fee an interest in extending the authority and character of the schools; that you should have assistance from the charity funds, which are found to be in what Canon Robinson calls "suspended animation," so as to enable them to get through the time of trial; and that ulti-

mately when the schools have become self-supporting and when assistance is no longer wanted, the funds should be turned into scholarships for the benefit of poor scholars, to enable them to continue their education longer than otherwise they would be able to do; and that by Government inspection you should satisfy yourselves of the continued efficiency of these schools, and thereby maintain their responsibility to Parliament, or in other words their responsibility to the nation.

Sir STAFFORD NORTHCOTE, M.P.: There is no doubt a great deal of unanimity as to the necessity of doing something, but a good deal of division of opinion as to what it is that ought to be done. With regard to several of the questions that have been started to-day, I should be sorry to express at once a positive opinion. The questions have divided themselves into two classes. First of all, how can you make the best use of the endowments which we have at present for the promotion of education, which endowments are certainly not at present turned to the best account for the country at large, and especially not for the benefit of the middle classes; and, secondly, what measures besides the proper application of these endowments would it be desirable to adopt? Among the most important that have been suggested, are Government inspection, a Government system of registration of teachers, and the establishment, or at least the improvement, of training colleges. But I look with considerable jealousy on anything which has a tendency to centralise the education of the country—especially the education of the middle classes—in the hands of the Government. Though I admit there is great force in much that has been said in regard to the importance of inspection, yet when you consider what great differences there are in the condition of the middle-classes, how different their requirements are in different portions of the kingdom, you ought to make the system as free as possible. I am afraid if you were to establish a rigorous system of school inspection, especially if you went the length of prohibiting anyone opening a school who did not hold a certificate of competency to teach, you would run the risk of narrowing the circle of education and of stereotyping ideas which might be prevalent at a particular time, but which it is desirable to enlarge, and which would only be enlarged by the energies of individuals acting under the stimulus of competition with one another. With regard to endowments, there are schools where the endowment is utterly thrown away, and it is to these that we must mainly direct our attention. I do not say, as Mr. Thompson said, that you should abolish the trusts in such cases, for that I think might be too strong, and I would say "carry out the general rather than the particular intentions of the founders, and try to make them as useful as possible." I should like to say a few words on that point in Mr. Fitch's paper which was the only one on which I disagreed with him, namely on the value to be attached to the study of Latin in cases in which Latin cannot be carried on either to the upper schools or to the universities. I must record my dissent from his view, and my firm impression that, if the methods of teaching are good, and if too much is not attempted, even so much Latin as we could teach a boy below fourteen or fifteen would be of the very highest value to him with regard to his general education, and the formation of his general character. It is not a question of what will be directly useful to him in the transactions of life. We are perfectly sure that the middle classes will cultivate all those studies necessary to enable them to succeed in the business of life. What you require to give them is that which they do not see to be immediately useful, but that which makes the man. And we should endeavour to harmonise the education of the whole country. I do not think it possible to make the education of the highest and the lowest classes the same, but you may conduct it on the same principles, and endeavour while giving the instruction that is necessary, to give also that educational character which forms the mind and habits, and elevates the tastes. You teach in the lowest schools things which do not seem to be immediately of use to the ploughman or the carpenter; so in the middle-class schools you ought to teach those things which give a higher tone and elevation of character; and I am quite sure that, if properly handled, Latin will be a most valuable auxiliary to the greater part of the middle-classes, as an instrument of education.

The Rev. Canon TREVOR: I don't admit that foundations were intended for the particular benefit of this or that class, but for the purpose of affording to every

person whatsoever, the means, if they had the spirit and genius to take advantage of them, of obtaining the highest education which the schools of the day could give. I don't admit the principle that they were founded merely to give boys that degree of education which should be useful to them in their respective classes of society. I say they were founded in order to give the highest possible scholarship that was then known or contemplated by the founders of the school, and that the meaning of the foundation was this, that it should give to the very poorest man in the kingdom the means of placing his boy, at little or no cost, at such foundations as by the education there imparted he might rise to be the highest officer of Church or State, whether Archbishop or Lord Chancellor. And we have had both Archbishops and Lord Chancellors from the lowest ranks of society. Now take the proposed arrangements, and I ask you where will the poor man's son be left then? He will be placed in one of those modified grammar schools, and will get, not an education which will enable him to go to Eton and Winchester, but an education that will bar against him the doors of Eton and the higher-class schools. He will not get an education that will enable him to go to the university, but an education that will keep him for ever in the lower middle class, for whom we are now providing with so much liberality. You will take away from him those foundations which were designed for his benefit, and those advantages which might enable him to attain to excellence in scholarship. I do not agree with Mr. Thompson in his opinions as to the public trusts. I hold thoroughly to the views which were enunciated to a certain extent by my brother Canon Robinson, that you should add to the old foundations everything which the present state of society may render useful and advantageous, but I cannot consent that you should take away from them that one thing which was the salt, the life, and the glory of these old schools; that ladder on which so many promising boys have risen step by step from the lowest to the very highest rank in the country.

Sir JOHN PAKINGTON, M.P.: I wish to say a few words on the point that is really before us, namely, what will hereafter be the best mode of supplying that want which is generally acknowledged in regard to the middle classes. If I were to make any criticism on the papers or on the discussion, it would be that I think they have turned rather much on the question how, hereafter, we are to deal with the grammar schools. No doubt the grammar schools form a most important branch of this question. I am disposed to think in regard to the grammar schools as they exist, and as we hope they may exist after the report of the royal commission, they will be principally resorted to, as I think they now are when they are in a good state, by that class of society who are in fact above what we contemplate when we talk of the educational requirements of the middle classes. When we speak of the educational wants of the middle classes we do not really contemplate those who may be strictly, and in a social sense, embraced within what is called the middle classes. In speaking of the educational requirements of the middle classes, we mainly refer to the shopkeeper and farmer. It is the shopkeeper and the farmer who constitute what Canon Robinson called in his paper the intermediate class, as being the class with respect to whom the law of supply and demand has failed. They want better schools than they have. Now no class need want better schools than our grammar schools when they are well conducted; but the class of respectable shopkeepers and farmers do stand greatly in need of better schools than those to which they now send their children. Perhaps a reform in the grammar schools might, to some extent, supply the deficiency—but I think we must look elsewhere. There is one branch of the question which I do not think has been touched upon in the discussions of this morning, namely, how far the improved condition of the national schools may be made useful to the middle classes to which I refer. I believe that if we could see the national schools of England placed on that footing on which they ought to be, and which many of them have now attained, and to which we must hope all of them will hereafter attain, I think you would have solved, to a great extent, the difficulty as to the middle classes. I cannot help adverting to what was stated by Canon Hey, with regard to the reluctance of different classes in England to associate in the same school. That no doubt is a serious evil, and I think the earnest efforts of all friends of education ought to be directed to eradicate and put an end to such a feeling wherever it exists. How different is the state of

things in this respect in Scotland. In this respect, as I am sorry to say in many others, we may learn a useful lesson from our Scottish neighbours. There the son of the gentleman freely associates with the son of the peasant in the same school. There is no false feeling of pride. There is nothing to prevent their assembling, and practically they do assemble in the same school to derive benefit from that teaching which is common and useful to them all. I am sanguine enough to think that there would be no difficulty in adopting a similar plan for those portions of the middle classes to which I refer; so far as elementary instruction is concerned, I believe that the tradesmen and farmers of England, and when I say this I mean the higher class of tradesmen and farmers, cannot do better in their respective neighbourhoods than send their children to the well-regulated national schools. Indeed I am happy to be able to say that in some few cases within my personal knowledge this is being carried into effect with the very best results. Then with regard to the difficulties of this kind which may exist in the large towns, it was I think thrown out in one of the able papers we have heard read, that these difficulties might be solved by the establishment of well-regulated day schools. This system is already begun. Not long ago I passed a most gratifying day presiding at the annual soirée of the middle-class school which had been founded in the neighbourhood of the Charter House of London, in connection with the well-known and admirable schools conducted by Mr. Rogers. I found there in the heart of London a school in which, on the most moderate terms—I think about £1 per quarter—the sons of the small tradesmen of the neighbourhood were receiving an education with which half the gentlemen of England would feel perfectly satisfied. Here I am only giving an instance of what may be done in large towns where there is a will to do it, and where it is set about in a satisfactory manner. But, assuming that I am right in the hope that the difficulty may be solved in this way, that at least in rural neighbourhoods, and probably in small towns, the elementary teaching of the middle classes may be satisfactorily conducted by joining in the same school with the working classes, there remains the very great difficulty of how this intermediate class is to be provided for, when the elementary teaching should cease. Here is the great practical difficulty. No doubt an admirable effort has been made in the county of Sussex, referred to by Canon Robinson, and we may hope that such examples will not be lost sight of. It is mainly on this branch of the subject, and with reference to this particular class, that we may hope from the royal commission to receive suggestions which may prove to be of practical value. Before sitting down I cannot help expressing the hope that when the time arrives for the report of the royal commission being submitted to the public it will not remain unattended to by the government of the day.. I am not sorry that I speak in presence of my right honourable friend the new Vice-President of the Committee of Council. I will not speak in any language of reproach towards the Government or the Education Department in consequence of the fact that no action has been taken during the last session of Parliament, with regard to the most important and valuable report on the public schools, which was the subject of discussion yesterday. I freely admit that it was natural for Government to require time for the consideration of a report of so much importance as it is. I am willing to admit that it would not, perhaps, have been reasonable to expect more from Government than we actually did receive, namely, an intimation that in a future session there should be legislation on that portion of the report which required to be, and could be, fairly dealt with by Parliament. But I cannot help reminding my honourable friend near me, that that valuable previous report of the other royal commission which inquired into the state of education for the lower classes of England, a report which, like that on the public schools, did great honour to the commissioners who conducted the inquiry, a report which is full, in my opinion, of the most important recommendations, has up to this moment, in no inconsiderable portion of its recommendations, been neglected and disregarded. One portion of these recommendations referred to that subject which has been a great deal touched upon to-day, namely, the small educational endowments, but nothing whatever has been done by Government on the subject; and I cannot help thinking that now, when we shall have the report of another commission, relating to

the larger and more important endowments of the grammar schools, if Government were anxiously devoting their attention to the subject, we might obtain a combined and harmonised system which would embrace all the classes of society.

Dr. Hodgson: There was so much that is excellent in the paper of Canon Robinson that it is with great reluctance I differ from him on one point of importance. The point to which I refer is the description drawn by Canon Robinson and Mr. Fitch of the deplorable state of the private schools throughout the country. I am quite willing to admit that there may be many establishments of far greater pretension than performance, that rely more on delusive promises in the prospectus than on the accomplishment of actual, real, faithful work; but I think it exceedingly unfortunate that there should be so little exception made in favour of the great number of excellent private schools that exist to my knowledge in this country. In fact, so far as my knowledge and experience go—and I do not pretend to any exclusive sources of information or any peculiar power of judgment,—the good schools are the rule, and the bad—and certainly the very bad—are the exceptions. It is not true that the mass of private schools are conducted by mere adventurers who have no well-founded pretensions to conducting schools, and no mode of proving that they possess the requisite qualifications. It is not a miserable employment left to the outcasts of society who have failed in other employments. The fact is that the keeping of private schools is a very lucrative employment, and it is very likely that a well qualified man will do everything on a liberal scale to make the boys comfortable and happy, and not only pay his way, but realise a considerable fortune in a few years. There is one gentleman in this room who has a large school in this county, and who I understand has expended not less than £20,000 in the improvement of his school, a man of a university education, a minister, though not of the Church, and thoroughly well qualified for the work. And this is not a solitary instance, for there are a great number of them. And it should not be forgotten that it is seventeen years since the teachers of private schools established the College of Preceptors, which at least within the last few years has attained an eminent position. The College of Preceptors had difficulties to contend with, inevitable in the circumstances, but when I mention that the president of it has been for some years Dr. Kennedy, and that other eminent teachers hold office in it, I think you will see that the College of Preceptors, if it has not hitherto been all that can be desired, is not to be put aside as a body of no importance whatever. Mr. Fitch said it was desirable to have some means of knowing what was the precise status involved in membership of the College, a title considerably diffused throughout the country, judging from the frequency with which it appears in advertisements. Now, the title of member of the College means no more than respectability of character and the payment of a guinea a year. But there are three degrees, the degree of associate, that of licenciate, and that of fellow; and to these degrees no one is admitted without a satisfactory examination, or such proof of his acquirements as shall satisfy the council of the College that the diploma is well deserved. And I say the College has rendered important services to the educational profession at large, and is doing much to supply the very defect pointed out in these papers, and to remedy the evils so earnestly complained of. The College has taken another step alluded to to-day, though with true liberality they do not confine the benefits of it to their own ranks. It purposes to establish a scholastic registration, the effect of which will be that all persons possessing a certain qualification hereafter to be determined shall be registered, so that any parent shall have a certain means of knowing whether a person who is advertising his qualifications possesses the qualifications he pretends to have or not. The author of one of the papers read to-day made an overstatement which it is important to correct. I am not aware that it has ever been proposed that by Act of Parliament anyone who is not qualified in a certain way should be prevented from opening a school. There will be full liberty to parents to send their children to any school they choose, but if they wish to know whether the master is qualified, there will be some available evidence of his qualifications. The only amount of penal restriction

proposed goes no further than a system analogous to that of medical registration, namely, that a man unqualified in terms of the Act shall not be entitled by legal process to recover his fees; and on even that point there is considerable difference of opinion, and I am not prepared to say that I have made up my mind in favour of even that amount of restriction. But I think if we could place before the public a register of duly qualified teachers it would be a sufficient guide to anyone willing to consult it. It has been said that the middle-class parents are incapable of judging of the qualifications of a good teacher—that they do not know a good teacher from a bad one. Now, however true this may be, I believe it simply comes to this, that middle-class parents, like parents of the higher and lower classes, are exceedingly ill-informed on the subject of education generally. In fact, they are only partakers of that general want of educational knowledge and appreciation of what constitutes true education, which is one of the great misfortunes of the country. But they are, perhaps, less liable to it than the members of the upper classes. The member of the upper class sends his son to the very school where he himself was flogged; whereas the middle-class parent makes a certain amount of inquiry, and if misled, he is at least misled after inquiry. One great advantage of the private schools is, that they are untrammelled by charters or traditions. They are perfectly free to make changes, when changes recommend themselves, and suit their condition to the spirit of the age. There is, no doubt, a tendency to too great change as one teacher succeeds another, but in this progressive world, I think the less evil is being open to change than being shut against all change. There is one point in Mr. Fitch's paper, to which I wish to call attention. Mr. Fitch, who speaks with the authority of a man of long experience in education, having been the principal of the Training College of Borough Road School, of the British and Foreign Society, and now holding the position of one of Her Majesty's Inspectors, has recommended that the training colleges which have hitherto provided well-qualified masters for the national schools should be rendered available for the training of teachers for the children of the middle class. I think of all the suggestions we have had during the course of this meeting, there is none that is more pregnant with good effects than that. Here the training college exists with its staff of masters; and the idea came across me when Mr. Fitch was speaking that we have here a remedy for one of the mischiefs of the Revised Code. These colleges are no longer required under the Revised Code, and we do not now, it appears, want highly qualified training masters to teach the masters of the schools. The ingenious authors of the Revised Code were wise enough not to aim an apparent blow at these training schools. They did not take these fortresses by storm, and not even by sap, but they have beleaguered them and resolved to starve out the occupants; and they are now in process of gradual but not painless extinction by famine. Now, I say, such a scheme as that proposed by Mr. Fitch would rescue these institutions from impending ruin, and would not only extend their utility beyond the purpose originally contemplated, but would, within the limits of that purpose, increase their utility. In this way these schools would bring about them teachers of a higher stamp, and the children of the lower schools would reap the benefit in the higher standard of teachers that would be given to these schools. Throughout all these discussions I have been grieved to notice that there has been no allusion to the establishment of schools for girls of the middle classes. It is all very well to establish schools for boys, but if you leave the girls out it will be a one-sided affair of which the good effects must be greatly crippled. I hope this will not be forgotten when the commission is appointed. I look forward to the commission with hope, but I confess not very sanguine hope. I have seen commissions bring in very elaborate reports, but, as Sir John Pakington has shown, the results have been exceedingly small. I have been an assistant-commissioner in the production of a volume weighing I do not know how much, and I wasted thereon eight precious months of my time; and I believe instead of being the means of doing good to the education of the lower classes, it has been the means of throwing it back. I trust a similar fate will not attend the report of the commission now to be appointed.

Mr. Bruce, M.P.: My right honourable friend Sir John Pakington is one of the

most ardent and persevering friends of education that the country possesses, and he has acquitted Government of any charge of undue delay from not having legislated on the Report of the Public Schools Commission. The Report was laid on the table within a month or six weeks of the termination of the session. I am not in the secrets of the Cabinet, but I have no doubt the Report is in their minds with a view to future legislation. My right honourable friend complained that the valuable Report of the Royal Commission of 1861 was not sufficiently attended to. Now I speak in the presence of a great many clergymen and managers of schools, and I ask them whether sufficient legislation was or was not taken with reference to that Report? I know that the allusion of my right honourable friend was especially to the extension of education to classes who do not now enjoy it, and perhaps the application of endowments to this purpose. I admit that in that direction little has been done, and that much remains to be done. The gentleman who has just spoken with so much force and eloquence, found fault both with the admirable papers and speeches we have heard, for having, as he said, unduly undervalued the state of middle class education in this country. We were all proud of the public schools of England; there was not an Englishman who was not proud when the name of Eton or Rugby was mentioned, but "lamentable disclosures" occurred because inquiry was made, and the light of publicity was let in. In the same way "lamentable disclosures" were made when inquiries were directed to the state of the education of the labouring classes, and undoubtedly much good should have been produced by the inquiry. The middle-class schools of England would not have been what they are now, had there not been so much that is excellent in their mode of education. Still, both in respect to endowed and private schools, there can be no doubt there is much that needs inquiry. With respect to the endowed schools, I say, as an unpaid charity commissioner, that though much good has been done by increased power being given to the Charity Commissioners, still their hands are greatly tied up, and all experience has shown that their powers having been exercised for the public benefit, might be extended with perfect safety and great advantage. With respect to the application of these endowments, I will not attempt to forestall the recommendations of the commission; all I mean to say is that it is perfectly clear, and all who have heard this discussion must be convinced, that if all the endowed grammar schools of the country were to be raised to the ideal standard of excellence which the Rev. Canon Trevor wished—if every one of these schools were capable of giving a first-rate classical education, there would certainly be a plethora of such schools throughout the country. There are vast numbers who from want of means are unable to keep their children a long time at the school, and who have no very ambitious views regarding them. For them it might be advisable if somewhat superior schools were found than at present exist; and I think it would meet the views of all who have addressed the meeting if there should also be within reach of all persons of the middle classes schools at which their sons might obtain an education such as should enable them to cope with the highest in the land for the greatest distinctions in the land, competing with those who entered in a better state of preparation. The fact is that we have to provide education for all, so as to enable the country to avail itself of the services of all; and that can only be done by getting rid of those localising influences well fitted for an age when locomotion was so slow, but not well fitted for the present age. When we hear people speak of useful subjects of education, one is naturally led to inquire whether that means only such subjects as go to fit a man to make money, or to get himself into a position of material comfort and prosperity, or that which will fit him to perform the duties of a citizen of the country with large and liberal views. You cannot, in fact, dissociate these two objects, and if the middle classes are to be as they always have been, the fertile source of good and useful citizens to this country, depend upon it while you provide adequate education for the great mass of them, you must open to all of them the best education that is attainable, and the means of putting them on a footing of equality with those on whom fortune has showered more liberal gifts at the first start of life. I believe this discussion has been of great use in bringing out that diversity of opinion which exists among educated men on the subject, and one thing you may be sure of that as

Government faithfully reflects the opinion of intelligent men throughout the country, there is no fear that the Government will interfere more largely than it does now with the education of the middle classes, unless it is the expressed desire of the middle classes that the Government should do so.

Lord BROUGHAM: The time for adjournment has come, and I would repeat my constantly avowed opinion, that whatever steps are taken with respect to the middle-class schools, no compulsion whatever, direct or indirect, should be applied, and it is on that ground that I would not impose even the slight restraint of refusing to allow those teachers who have not the qualification to recover by action. I have always been decidedly against that, for I considered it an indirect mode of compelling certain schools to be taught by certain teachers, and consequently, against the very principle of freedom. But let the teachers qualify, and let certificates of qualification be given by the inspectors, and there is scarcely one school in a hundred where the teachers would not strive to take out that certificate.

ELEMENTARY EDUCATION.*

What is the State of Education in the Rural Districts and Small Town Populations, and how can the peculiar Difficulties attending it be Removed?

The papers on the subject by the Rev. Canon Trevor and the Rev. Canon Randolph, will be found at pp. 412, 420.

DISCUSSION.

Sir JOHN PAKINGTON, M.P.: I have repeatedly stated my conviction that the education of the whole people of England never could or would be properly carried out under the present system of the Committee of Council, and that the time must come when that system would be found unequal to deal with the requirements of the whole country; that it was too much centralised, and that it must become much too costly; and I confess I look on the Revised Code as the first step, and on the Endowment Minute as the second step towards the fulfilment of that prediction. But I should not have thought it necessary to refer to this subject on the present occasion, having so often expressed my opinions upon it, had it not been for some portions of the paper read by the Rev. Canon Trevor. I feel imperatively called upon by a sense of public duty to declare my decided and entire dissent from a considerable portion of that paper. It raised one of the greatest and most important questions connected with this great subject, and that question is whether in endeavouring to extend education to the whole of the people of this country, the Church of England is to act in an exclusive and intolerant spirit, or a spirit of comprehensiveness and charity. Canon Trevor said it was a very common case where a parish had an area of population which was only enough for the support of one school, that, in consequence of the differences of religious opinion, it was divided into two or even three schools. This statement by Canon Trevor is fatal to his own objection to the "conscience clause." We know the difficulty of establishing good schools in a parish of limited area and population. We know equally well that if the population within that area is only enough for the support of one good school, it is not only desirable, but essential to the maintenance of a good school, that the population should be combined in one, and that they should not be frittered away upon two or three, the result of which must inevitably be to have two or more bad schools instead of one good one. I venture to submit that the action of the conscience clause at once affords a sound, wholesome, and most desirable escape from the very difficulties which Canon Trevor has thus indicated. No

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* See *Transactions*, 1863, p. 365.

doubt in the interests of the Church of England, in compliance with the religious belief of the great majority of the people, it is desirable that in the national schools of England the national religion should be taught. Wherever the members of different religious persuasions are sufficient, it is desirable that they should have their own schools. But the question is, what are you to do where there are small minorities—no imaginary case. It is a case that occurs in many parts of England, and it has occurred within my own observation. I say when you come to a parish containing a great numerical proportion of churchmen and a small minority of dissenters, you unavoidably come to the question, Is the Church of England to act in a comprehensive and tolerant spirit, or in a spirit which I think is the reverse of tolerant? I say that in the national schools it is my opinion you ought to teach the doctrines and catechism of the Church of England, and no others. I would not counsel the teaching of the different religious bodies in the same school, but I say if you come to that which Canon Trevor advocates, you would exclude children from the benefits of good education because their parents go to worship God in the meeting-house rather than in the church, and I say that that in my opinion is a course inconsistent with Christian charity, and inconsistent no less with the duty than it is with the interests of the Church of England. There are one or two other points to which perhaps you will allow me to advert. In adverting to the Bill which I introduced into Parliament some years ago on this subject, Canon Trevor said that I wished to assimilate the education of the people with the system of relieving the poor; and in the course of his remarks on that point alluded to the action of the boards of guardians throughout the country in terms, as I think, so unjust and unsound that again I must record my protest. Canon Trevor said that the action of the boards of guardians throughout the country was directed solely to the saving of public money, and not to the comforts of the poor. I am bound to say that that is not my experience of the working of the Poor Law. I have attended to the working of the Poor Law practically for many years, and while of course it is essential that in the administration of money collected from the public there should be due regard to economy, I have always believed that one of the greatest improvements ever introduced into the country was the Poor Law Amendment Act; and I believe that, take England generally, the primary object of the guardians of the poor has been the kind and benevolent care of the poor rather than the unduly economical saving of the rates. But all that I have ever contended for is that you will never get a sound system of education till you make it less centralised than it now is, and till you call into action local aid. With reference to the necessity of providing for the education of the poor in very small parishes by combination, I may be allowed to mention a case in my own neighbourhood where this principle has been acted upon with the greatest advantage. There is one parish belonging to one proprietor, and another to another, and there are two other adjacent parishes with no resident proprietor at all. Each one of these four parishes was too small to make it possible to have a good school in each; and the two proprietors agreed to correct the evil, and, availing themselves of a small endowment which was absolutely worthless as it stood, they built a good school and combined the four parishes, and there is now accordingly at work in these four parishes a school numbering eighty or ninety scholars, and giving to that area the benefit of a sound and excellent education, which it would have been impossible to give in any one of the four parishes separately. I believe that throughout a great part of England the system of uniting parishes may be most beneficially resorted to. In such a case as I have just mentioned, where there are resident proprietors the thing is comparatively easy. It only requires good will on the part of these gentlemen; but there are hundreds of parishes where there are no resident proprietors to carry out the work. Here we want the action of some central administration to step in, which shall not say, as the present system has too long said, "We will help the rich, but we will not help the poor;" or as Canon Randolph truly pointed out, "We call on all to pay their taxes on education, but we will only give the benefit to a portion of the population." I will only add the expression of my anxious wish that those small rectors and vicars to which Canon Trevor referred, would, throughout the length and breadth of England, open their eyes to the facts, and

open their hearts to the feelings which those facts may well teach, and then we should have a better hope of education being supplied to every hamlet in the country.

The Rev. Canon TREVOR: I cannot be surprised that the right hon. baronet should rise and protest against the larger part of my paper. It was almost the sole object of that paper to enter my protest against the views which had been adopted by the right hon. baronet. I am content, therefore, to rest on the paper and on the impression which its arguments may have produced, and I think I can show that there is no inconsistency in that point of the paper to which he alluded. I gave all force to the argument of the Privy Council that the dividing of an area only fitted for one flourishing school, into two or three, is a very great evil; and that if it were possible to unite these into one school, it would be exceedingly just right and necessary that that union should take place. But then what is the objection? It is one which I consider outweighs the proposition. It is to the leaving of the religious teaching out of the schools and in the hands of the respective denominations. And therefore, I say, it would be a violation of the compact to compel the union of two or three schools into one, on the principle laid down by the Privy Council, which principle is repugnant to the religious convictions of every one of the denominations so proposed to be yoked together. Now I see no sort of inconsistency in allowing great force to the one argument for the express purpose of showing that greater force must be allowed to the one which resists it. The right hon. baronet took no notice of the statement in my paper, that the conscience clause has actually provoked a rupture between the National Society and the greater portion of the Church schools. Now it may be a very desirable thing to widen the area of our schools, but if the effect of it is to alienate the Church schools from the mixed system which Parliament has adopted in order to conciliate—though I do not know it has conciliated—the schools of other denominations, then I venture to say, it is not wise in the Privy Council to press that proposition, nor is it a fair and just principle to try by secondary measures to undermine and alter the form of the compact between the State and the religious organisations. I have never advocated the practice, or should, as a churchman, recommend the intolerant and exclusive view which the right hon. baronet has so justly censured. I do not think that it is desirable to educate persons of different religious views apart, and thereby stereotype and perpetuate our unhappy religious divisions to the end of time. I believe, on the contrary, that the exact opposite is the desirable course of proceeding. All my life long, in any school which I have undertaken to guide and manage, it has always been one of my most earnest endeavours to bring into the school people of different religious views, in order to reconcile rather than by separate education to keep them apart. I advocate, in fact, free trade and thorough liberality in the matter of education, and what I object to is the attempt on the part of the right hon. baronet to continue the restriction and protection on us. Now the right hon. baronet must allow me to say, that the proposition of the "conscience clause" by the Privy Council, is exactly the way to rouse the very spirit of intolerance which he desires to suppress. When the Committee of Council come forward to undertake to protect and guard the consciences of dissenters—who seem very ungrateful for their care and do not want their guardianship—when the Privy Council imposes a clause which challenges and calls up whatever there is in us of denominational or sectional feeling, and which binds you to teach the dissenter without injury to his conscience when it stereotypes a clause for encouraging and perpetuating dissent in the Church schools, then I contend, not speaking as a churchman, but as on a point of justice and equity, that the Privy Council are violating the compact established between us. The clergy do kindly and christianly—and their feelings are reciprocated—admit the children of dissenters to their schools and take very good care not to meddle with their conscientious principles, but when you come with a stereotyped clause and lay down principles which completely tie up their hands, then you change the whole character of the question, and we accordingly feel bound to resist the imposition of such a clause.

The Rev. DAVID MELVILLE: The paper of Canon Randolph is so forcible, that it would probably be rash to enter into any encounter with it. But in that paper

there was an assertion, made quite inadvertently on his part, but which I think would hardly be borne out by the facts, and might leave a mistaken impression on the minds of those who heard it. He stated that half of the money collected for the purpose of education was supplied by the State through the educational grant. Now that cannot be, at all events in recent times, because the education grant has fenced itself around with such provisions that such a result would be totally impossible. You cannot exceed one half of the funds subscribed from other sources, but I think it probable that the mistake of Canon Randolph arose from this, that he has taken the past, and to give him greater justification for his statements, he has taken only the assisted schools and left entirely out of sight all the great number of unassisted schools, which draw most largely on the voluntary efforts of the community. For a fair estimate of what is raised by voluntary contributions, against that which is obtained from the grant of the Government, you ought to consider all that is raised for the purposes of education throughout the country, even for those who do not ask the Government aid, as compared with what is granted for those schools which do put themselves under the Government grant. There is another point on which I would say a word. We will call it free trade in education, which Canon Randolph advocated. There are three necessary conditions to be satisfied, before the principle of free trade can properly and healthily operate. There must in the first place be the appetite, and as a condition of a healthy state of appetite, there ought to be that discriminating power and taste which shall know the article that is supplied to it, and there ought to be, further, the means of supplying the article. Now with regard to education, there is I fear not any of these conditions fulfilled. We have none of the three essential conditions of free trade. It is therefore clear that it is not enough to leave education to be regulated by the law of supply and demand. You must have a system of training schools, which free trade would upset, and an order of teachers receiving the Government imprimatur and sanction, and consequently a system of protection. I am not opposed to free trade, but I think it is not wise or well to talk loosely, and to transfer to one thing that which applies to another, and to apply a principle under conditions which do not admit of its operation. It is necessary to see whether the analogy holds good or not, and see what are the circumstances which may qualify its application. And therefore you will see that while Mr. Walter's motion might seem to extend to some small rural schools the possibility of obtaining a share in the educational grant, and of aiding that which we all earnestly desire, namely, the extension of the education of the poorer classes, it does not accomplish that which is really intended by it; your supply fails where it is most wanted, and if you leave the people to their own appetite and discrimination, and their own means of supply, you are not accomplishing the object; for what you offer only becomes a benefit, when it is stamped by certain conditions to guarantee its efficiency. The question is fenced around with difficulties, but I feel bound to say, that at present, the condition of the country does not warrant the extension of free trade to our educational system, though we know it to be so wise and beneficial with regard to our commercial relations.

The Rev. H. R. Sandford: As one of the school inspectors of the district, I am anxious to say a few words on the question. I cannot help thinking that much might be done to raise the income of the schools by augmenting the school fees. The great justification of the new code was that the parents did not pay sufficiently. They did not pay more than one-third. Now, it is most important that when the parents of the class above the poor send their children to school, they should pay really what the education of the child costs. A large proportion of the children of the lower middle classes are educated in the National and British schools, and I think, if they send their children to these schools they ought to pay for their education. Taking 43 schools, I found that in only 22 was the fee regulated in any degree by the circumstances of the parent, and all these were country schools. In not one of the town schools in my district is the fee varied according to the circumstances of the parents; yet many of these schools are receiving the children of operatives who earn from £2 to £3 a week. This is an encroachment on the funds which have been subscribed for the education of the poor. Out of 22 schools there are

not 8 where the school fee is so high as 6*d.* per week. For 12 years I have been inspecting schools, and every year I am engaged in the work, I am more and more convinced that the plan Sir John Pakington suggests will have to be adopted at last—that we shall have to adopt an educational rate. I was convinced of that before the Commission came out, and I think that something like a county rate is the only way of getting rid of the injustice of the present system. With regard to subscriptions, in Yorkshire the landed gentry generally subscribe, but in other parts of the country everything is done by the clergyman. There are five or six parishes in the North Riding and in the East, where the rating plan has been already adopted, where the people rate themselves 1*d.* per £1 to support a school in the village, to which the farmers' children are sent as well as the poorer classes. I would make one observation with regard to the religious question, though I agree that it is far better to let those children off from the catechism whose parents desire it; I must bear my testimony to the liberal spirit of the clergy in that matter. I know one school where about 300 children are educated of whom not more than three or four go to the Church Sunday schools; and I could mention other instances to show that the managers of the Church schools generally are not narrow or bigoted in the way they conduct these schools. With regard to the catechism, all who are acquainted with the subject know that the poor do not care much about the particular form, whether it is the Scriptures with or without the catechism, but they are very particular about having their children at their own Sunday-schools. Generally speaking, there is no objection made to the catechism, so long as the children are allowed to go where they please on Sunday.

The Rev. Nash Stephenson: I would draw the attention of the Department to the question where the decrease of the grant took place? Under the old code, as we all recollect, a specified sum was given to the master whatever might be the number of his scholars, while under the Revised Code the sum given is according to the number of children he passes. It therefore follows that the decrease must take place in the small schools, and that where most aid is needed least is given. It appears to me that that is exactly the reverse of what we ought to do. The present system is that where aid is least wanted there it appears in abundance, and that where it is most wanted none is given. I recollect in the county of Warwick obtaining a return of all the schools under inspection and of those not under inspection, and I found that while in populations of 500 and upwards the schools under inspection were exactly one half, in populations under that, they were only one in twenty-six. Sir John Pakington speaks of the experiment made in his district in combining small parishes together, and no doubt in certain cases that may be done. But this union of parishes has not very long taken place; we have yet to learn what will happen on changes of incumbents. If we were sure that the incumbents would always agree, the thing seems feasible enough, but according to the report of the Royal Commission we have no great encouragement to go on in this way, for we are told there that it would be impossible to encourage unions of this sort in consequence of the disagreements of incumbents as to who is to be the religious teacher. And a remarkable instance of this is given in the present year's report, in which we are told that a school was erected and completed in 1858, at a cost of £1,738, of which £639 was paid from the public grant, and that application was made, in 1863, for a further grant in consequence of having reduced it to one-third by reason of the incumbent of the adjoining parish having built another.

Lord Teignmouth: Some observations which fell from Mr. Sandford struck me as being so excellent, that I will just allude to the experience of the Ragged School Society of Bristol for full confirmation of them. There is no town in England in which there is a greater body of dissenters. We determined to plant ragged schools in all the worst districts of the town, but, instead of acting on the so-called liberal principles of the Ragged School Society of London, and excluding the catechism, we determined to make it exclusively a Church school, and to teach the catechism but not compulsorily. The dissenting preachers were only waiting the result of our decision to denounce the schools if the catechism was made compulsory; when they found it was not to be so, they immediately gave in their adhesion to the schools. And what has been the practical result? The

catechism has scarcely ever been refused. There were two who refused it, but I believe that for the last seventeen years the catechism has been indiscriminately taught to churchmen and dissenters, whereas, had we positively insisted that the catechism should be taught, all the dissenters would have been withdrawn.

Sir STAFFORD NORTHCOTE: I understand that the object to-day is to consider what can be done to extend education more abundantly to those parts of the country where it does not at present abound, and to those classes which it does not influence so much as it ought to do. We know that after all the exertions that have been made, a large portion of the humbler classes do not really derive benefit from the educational grant. What has been the history of all these educational movements? It is, that exertions have been made for the benefit of one class, and that these exertions have been immediately carried to the benefit not of the class for which they were originally designed, but to the class above. This has been the case with the movement originated by Mr. Raikes and others in the last century, who, taking compassion on some of the miserable children running about the streets of the large towns, and left to grow up without any knowledge of God or of their duties to mankind, endeavoured to meet the wants of these children, and started a system which was found so good that the class immediately above the poor came to take advantage of it, being themselves insufficiently provided for, so that what was started for the benefit of the lowest, soon rose to the level of the classes above. And so in process of time when the Government found themselves administering a large centralised system of aid to public education, it was found necessary for them to lay down for the protection of the public purse, certain rules and principles which were necessarily stringent and not very elastic. The effect of that was, that in the richer and more favoured districts it was possible to avail yourself of the aid which the State offered under these conditions, and while in the places where education less needed aid, it was easy to get the sum which the State offered, because it was easy to comply with the conditions, the lowest classes were left unprovided for, and when exertions were made by persons interested in the condition of the lowest classes, to get more liberal terms, and get their children more properly cared for, the answer was, and it was a difficult answer to meet, that "We are administering public funds on a centralised system and according to certain principles which it is necessary to lay down, and to make strict and general in their application, and that if we are to alter the principles and relax the conditions with a view to the class you are now anxious to benefit, the class above will get their aid on very loose and improper conditions; the public purse will be unduly taxed, and we shall find ourselves unable to meet the demands that are made." That was the difficulty which undoubtedly beset the whole system in the first instance. Then there were the cases of the pupil teachers; when the lowest classes came for assistance, they said, "We do not get the assistance you give to better schools, for we cannot afford to have pupil teachers, which are part of the conditions on which you give aid to the upper classes;" and the answer was "this is a part of the system we cannot alter, because if we alter it for you, we must alter it for the whole country." Now what has happened is this: That system has to a very great extent been altered to a system of giving aid which could only be given to properly certified and inspected schools. That system has now been almost swept away, or at all events materially altered by the introduction of the principle of payment for results; and the question is, whether we cannot make the new system apply to the condition of these poorer classes, and enable us to meet the wants which formerly we could not have met. There have been one or two things suggested. In the first place, whether we ought not to give those payments for results to schools of all classes, whether they have certified masters or not. I do feel that there is a great deal to be said for the encouragement of properly educated masters in our schools, but that principle is already to a certain extent recognised in the form in which the payments for results are now made, payments made on the attendance only, without reference to the examination, payments made in consideration of the general benefits which the children derive from attending a properly constituted school under properly educated masters. Then there is the payment made in respect of the attainments of the child; and surely we may say that that at all events

is a payment to which the children at schools not certified may lay claim. If the children have attained to the necessary results, let the payments be made in respect of the results attained. But with regard to these schools you say you have not the same guarantee of the character of the master that we have in other cases. Well I say, it may not be desirable to lay claim to the payments for attendance, but you may give them the payments on the results alone. That is the solution I suggest for consideration, but I am far from saying that I think it entirely meets the case. There was a suggestion made, I think by Canon Randolph, that there should be a higher rate of payment made in the schools where there is a small population. It immediately occurred to me that that was not a solution which was likely to be a satisfactory one, because the schools where there is a small population are commonly the schools of small parishes entirely in the hands of the landlord, and he probably a resident landlord, and where probably there are abundant funds. Everybody must know numerous cases in which gentlemen, living on their property and having command of the whole or probably three quarters of the parish, are able to maintain a school for the parish, so that I am afraid it would be helping the wrong parties if you were to add to these grants. Another question that has been raised is deserving of very serious consideration, namely, the doing away with, or mitigating the evils of the central system by establishing something like local agency for the support of the schools. On that point Sir John Pakington has spoken not only to-day, but on many former occasions; and though the question is full of difficulties, and though the objections that may be made to what has been proposed now and on former occasions are certainly very serious ones, I do think they are of a character which deserves the most serious consideration in order that we may see whether this is not one at least of the ways of escape that presents itself. These difficulties—the religious difficulty and all these other difficulties—are, I think, enhanced when you have to deal with a single centralised system administered not with reference to the wants of the district, and if you could get a proper system of local management you would reduce these difficulties in a very great degree. But what are the objections to local management? Mainly the want of confidence the friends of education have in the ability and fitness of the middle classes to take a proper share in the education of the lower classes. And this brings me to the point I wish particularly to impress upon you; that I do myself most firmly believe that there is no one thing of so much importance for the primary education of the lower classes as the improvement of the middle classes. Agreeing as I do with Sir John Pakington in the principles which I believe he holds on this subject, I do not think we are at the present moment ripe for the application of them. I should be sorry to see an attempt made in that direction only to fail; and I am afraid that if we were attempting to throw the management too quickly into the hands of local parties, supported by local rates, we should run the risk of both injuring the schools themselves, and of exciting an enmity and opposition in quarters where we particularly wish to excite friednly feelings. After much consideration I feel bound to say that I do not think we are ripe for the introduction of the rating system, but it is to that system, to a very great extent, aided and checked by something in the nature of general inspection and general aid, that we may ultimately look for the solution of the problem of our elementary education, and I think our exertions ought now to be directed towards the improvement of the education of the middle classes, with a view to the improvement of the lower classes; it is important that we should harmonise the education of our highest, middle, and lower classes; and when we have done that to anything like a satisfactory extent, I believe we may safely leave the decision and solution of those problems that are perplexing us as to the education of the lowest classes to the action of local agency.

The Rev. Mr. Cromwell: I most heartily coincide with the remarks that fell from Lord Teignmouth. The result of my own experience is precisely the same. In correspondence and communication with a large number of schoolmasters scattered over various parts of the country, I have seldom heard of a case where the children have been withdrawn from school because the catechism was taught. The exceptions occur principally on the borders of

Scotland, where Presbyterian feeling is particularly strong. My opinion is that the religious discord so much talked about on the platform and in Parliament is very considerably exaggerated. Clergymen who are in the habit of coming face to face with dissenting parents and children know perfectly well that few of these parents have any very decided opinions on religious questions. As Canon Trevor said this morning, they are not tainted very deeply; they do not go very minutely into questions of doctrine, and if they find a Church-school well taught and managed they will very seldom object to send their children there and even to have them taught the catechism. With regard to the question of rates, more than one of the speakers have spoken in favour of rating parishes. The difficulty I feel is how you will get the school managed under a system of rates. I think most clergymen familiar with the management of the parochial schools will admit that there is at present, in many quarters at least, a very considerable jealousy on the part of farmers and others who feel that their own children are receiving an education not much better than the children attending the national schools. If, therefore, you come to a system of parochial rating, you must put the practical management into the hands of those who are not at present adequately qualified to manage them. Though I feel that the management of the schools had better be placed in the hands of those who are on the spot and provide a considerable portion of the funds, yet I coincide with the previous speakers that the time has not yet come when that system can be safely inaugurated. I conceive the day may come when the management may be entrusted to the heads not only of the middle-classes but the working classes themselves, and when the parents of some of the children who attend the schools should be placed on the committees; but at the same time I must emphatically state my opinion that that time has not yet arrived. There was one point touched upon by Canon Randolph to which too little attention has yet been paid. He spoke about inspection. I think attention has not yet been sufficiently directed to the question of the vast expense of inspection in proportion to the whole grant made by Parliament for the purpose of aiding popular education in this country.

Dr. W. B. Hodgson: I do not intend to enter into the vexed question of the Revised Code, spoken of by Canon Randolph, but I wish to make a few remarks on a sentence contained in his paper, and the more so that it lies at the basis of the Revised Code, and permeates the whole question of education. The Rev. Canon said with reference to the present system that it was vain to expect a good superstructure without having a good foundation. That was a truism which no one could dispute, but when he proceeded to say that the foundation of education, even as regards the working classes, is reading, writing, and arithmetic, I beg leave most earnestly to express my dissent from that proposition. I do not believe that reading and writing, with arithmetic thrown into the bargain, can be said to form the foundation of any educational system whatever. Arithmetic may be said truly to be a science, and therefore it does not enter into the same category with reading and writing; I confine, accordingly, what I have to say to these two things, reading and writing. Now I should as soon call a knife and fork the foundation of a dinner as I should have called reading and writing the foundation of education. And the illustration is, perhaps, more apt than at first sight appears. What is reading? It is at best a mechanical means of obtaining knowledge. And what is writing? It is a mechanical means of recording knowledge; but to confound reading and writing with knowledge itself, and still more with that mental gift and power which is far better than any knowledge whatsoever, is a lamentable and mischievous mistake. It is possible to have a well instructed man or a well instructed boy without any knowledge of reading or writing. The foundation of all education and the object of all education is the calling into play of the mental faculties, the intelligence and the moral nature; and the system which does it best, through whatever instrumentality, is the best system of instruction. But a system which regards a mere instrument as the foundation of all education is almost certain to lose sight of the fact that the great end we ought to aim at is the development and cultivation of the intelligence itself. It is perfectly possible

to cultivate reading and writing in such a way as not only to fail to call out the intelligence, but actually to stupify it. I have one example in my eye in the case of a lower class school at Greenwich, of which it was some time ago complained that the boys were backward in reading; and it occurred to the managers that the best remedy for the evil was to engage an assistant-master who was to take the backward boys and to employ them hour by hour in the mechanical practice of reading, in order that they might make up their leeway. This practice had gone on for some time, till a certain gentleman was appointed, who said:—"This is a faulty system; you are not teaching the boys, but stupifying them." Then he took them in hand and tried to explain the meaning of what they were reading, and he found that even as regarded the mechanical process of reading itself they made more progress than ever they had done, or ever could have done, under the system then pursued. I think it is extremely important that we should keep this end in view, and not exaggerate the importance of reading and writing unduly. In illustration of what I mean let me briefly refer to the statistics we see from time to time. In the criminal statistics it is generally stated that out of so many accused of certain classes of offences there were so many who were unable to read and write and so many that did both; and it is very naturally inferred that a great amount of ignorance is favourable to crime, and that you cannot expect moral culture out of the depths of ignorance which these statistics show. But if a great amount of ignorance is not only compatible with crime, but often the cause of it, it does not follow that a less amount of ignorance would much promote morality. Let me take an illustration: If I found a man who had not a halfpenny in his pocket, I should be inclined to suppose he was very poor; but if I found another man who had only a halfpenny in his pocket I would not say he was very rich. In like manner those who are deficient in reading and writing are likely to be extremely ignorant, but those who are in possession of both do not necessarily and in consequence possess considerable mental knowledge. Knowledge may be acquired, and continually is acquired, by children in many other ways better than by books. The young child in the first year of its existence learns more actually useful knowledge than in any three or four subsequent years of its life. So it is with school-boys and girls. Don't cram books into their hands too early. Let them become acquainted with natural history, the constitution of their own bodies, the relation between themselves and the objects which surround them, and it is little matter whether they know how to read and write at all. Far better give them useful knowledge and so create a desire to read in order to obtain knowledge; but give them the power of reading only, and, especially if it is obtained by a process which stupifies their intelligence, they will be indifferent to the acquiring of knowledge in time to come. Allow me in conclusion to express the great pleasure with which I heard the remarks of Sir Stafford Northcote at the close of his speech. He insisted on the importance of education to the middle-classes in order that we may have an education worthy of the name diffused among the working classes. But I wish he had extended his observations to the upper classes also, because I have found not only among the middle-classes but even among the higher classes an indifference to education, as shown by an inability to see the importance of education for any but their own children. You cannot rightly appreciate good education for your own children, without recognising its value for all humanity. Not many weeks ago Lord Shaftesbury said in the House of Lords that an old lady had expressed her surprise that there should be any education required for a chimney sweep! I have myself heard a lady say, "I do not object to servants writing, but I do not like them to write as a lady would." Now what we want is a recognition of the value of mental training for the purpose of cultivating those faculties which are conferred on us by our Creator in order that they might be cultivated; for in making our own happiness, prosperity, and moral improvement dependent on the knowledge of the relations among men and things, He has virtually commanded that we should make these relations our study, and this He has done not only for the rich and great, but for all classes of society.

The Rev. Thos. Myers, one of the local secretaries, read a brief paper on "The Statistics of Public Instruction in York." His estimate of the number of children in attendance in the elementary schools of the city, was founded on returns collected by himself at a great festival gathering of the day and Sunday schools of all denominations, in honour of the marriage of the Prince of Wales. It appeared that the total number of children present on that occasion amounted to 7,015; the population of the city amounting, according to the census returns of 1861, to 40,551. Some further details were added, from which Mr. Myers deduced the conclusion, that in the course of ten years, from 1851 to 1861, the number of children in day schools had increased by 1,615; *i. e.*, from 5,784 to 7,399, and that of the Sunday scholars by 1,776, or from 3,972 to 5,748. After deducting from the day school returns, 1,870 of the pupils of private and grammar schools, and allowing a further diminution of one-fifth for the difference between the average attendance and the number reported as on the books, it was concluded, that while in January, 1861, there were 4,390 children under instruction in public elementary schools, a further addition to this number, of 2,625, had taken place by March, 1863, or in other words, that the advance in numbers had been from 1 in 9 to 1 in 6 of the entire population of the city.

Mr. John Ford read a paper "On Education in the Society of Friends," which traced the history of educational efforts in the society from the origin of the society in the seventeenth century, down to the present time. From this statement it appears the subject early obtained the notice of the founders of the society, and that boarding schools were soon established, in which, in the language of George Fox, youths should be instructed "in all things civil and useful in the creation." Classical learning formed part of the curriculum, and to avoid the corrupting influence of the mythology of Greece and Rome, a grammar and exercise book were prepared, specially for the use of the schools. Those who are familiar with the "Confessions of St. Augustine," will remember that he was impressed in like manner with the evil tendency of much that is met with in classic literature. More than a century passed away before any corporate action was taken by the society in the establishment of schools. In the year 1777, the hospital at Ackworth, near Pontefract, for foundling children, was reported to be on sale. Dr. John Fothergill, a name not undistinguished in the medical profession, uniting with some of his friends, purchased the hospital, with eighty-four acres of land, for £7,000. The society accepted the bargain, and subscriptions were raised to defray the cost. On the 25th of March, 1779, the school was opened for 180 boys and 120 girls. From that day it has maintained a successful and uninterrupted course of usefulness, and up to June, 1864, 8,296 children had been trained within its walls. The cost for each child for the

year ending December, 1863, was £29 6*s.* 10*d.*; this includes all expenses, of every kind, except rent. The average payment of each child for the same year was £16 2*s.* 5*d.*, the deficiency being made up by subscriptions of upwards of £1,000 per annum, and by legacies and donations, averaging for the last six years, £800 per annum. The course of instruction includes a sound English education, with the rudiments of French and Latin to the upper forms. The age of the scholars lies between the limits of nine and fifteen. The management of the school is entrusted to a committee of twenty-eight members, seven of whom retire annually, and are not capable of re-election that year. Their successors are nominated by the committee itself, and are elected by the general meeting, held at the school in July of each year. This meeting reports to the yearly meetings of Friends held in London. There are three other schools, viz., at Croydon in Surrey, at Sidcot in Somersetshire, and Wigton in Cumberland, similar in constitution and purpose, except that they are not national, but subject to the control only of the Meetings of Friends in their respective districts. There are four other boarding schools in the society, for the children of persons not in membership, but connected with the society by marriage, descent, &c. They are largely supported by voluntary contributions, donations, and legacies. The balance of property in favour of these eight institutions, for the year 1863, was £126,000. In the same year 729 children were under their care and teaching. In addition to the above, intended for persons not in affluence, and for the poor, there are scattered throughout the country, various other boarding schools, affording, with the foregoing, ample accommodation for all the children of the society. There are in this city (York) two schools, under the control of the Quarterly Meeting of Friends of Yorkshire, one for about sixty boys, the other for thirty-six girls. In these, every branch of a liberal education is taught, and the full cost is paid for each pupil. There is also a proprietary school at Tottenham, which provides for the more wealthy at a charge of 100 guineas per annum. The average cost of each pupil at the boys' school in York is about £50 per annum. In August, 1848, by the bounty of Benjamin Flounders, Esq., of Yarm, additional means were provided for the promotion of a liberal education in the Society of Friends. An institution, called after the name of the founder, the Flounders Institute, was opened at Ackworth, for twelve students, who are provided with board, lodging, and instruction, free of cost. The course includes every branch of a liberal collegiate education, and has qualified several young men for degrees at the London University. These are designed for teachers in the schools and families of Friends. In order to promote right principles and practices in school education, an association was formed, in 1837, called the Friends' Educational Society. The meetings of the association are occasionally held at Ackworth, in July. About 200 Friends assembled there in July, 1864. Papers on educational topics were read and freely discussed. Besides its

annual reports, the society has published more than thirty essays, embracing a wide range of educational topics. "The Range of Studies," "the Teaching of the Classics," "the Occupation of Leisure Time," "Recreation," "Moral and Religious Training," have come under review in this series of essays, as well as the Prussian and American educational theories and systems. The meetings have been largely attended by parents; and therefore, whilst the association has tended to improve the general practice of our schools, it has deepened the interest of parents in the work, and has led to a more hearty co-operation with those to whom they have entrusted their children.

Mr. Ford then described the course of instruction, discipline, &c., at the boys' school in York, as not an unfair presentation of the general practice of the schools of the same class, throughout the society in England. A sound English education is the basis. Classics and modern languages are left to the choice of parents; the result is, nearly all are taught Latin and French; more than one-third German; and eleven or twelve Greek. By means of lectures, provision is made for an acquaintance with practical science in many departments. An observatory, furnished with an equatorial, transit instrument, &c., has made astronomy a favourite science. Many of the senior scholars have become familiar with the use of these instruments. The proportion of masters to scholars is large, and would appear extravagant contrasted with the reports of the great public schools in the Royal Commission. The disciplinary government is entrusted to the masters. Much dependence is also placed upon the influence of the senior class, who, though not formally invested with monitorial authority, are charged with a responsibility, which their own understanding and conscience acknowledge, and who thus render efficient and most valuable aid in sustaining the moral character of the school. Ample provision is made for recreation. Cricket and football are favourite games. Boating is permitted under conditions, viz., permission of parents—ability to swim—and the presence of one of the masters or junior teachers. Emulation is well sustained by careful registration of the performance of every lesson. There are no prizes; promotion is a sufficient stimulus. But this is not regulated solely by proficiency. A well-conducted and painstaking youth, if he remains at school the usual time, viz., to the age of sixteen or seventeen, has the benefit of the teaching of the senior class, even if he cannot be placed there by order of attainment; so that before he leaves school, he should have the benefits of the class, both moral and intellectual, in the cultivation of the manly character and in the higher order and more varied course of instruction. The Holy Scriptures are publicly read morning and evening; these are virtually the times of morning and evening family or collected worship. Kneeling by the bedside in prayer is encouraged and practised, but is not compulsory. On Sunday, besides the attendance of public worship, much attention is given to scriptural instruction; passages embodying Christian

doctrine, principles, and practice, are committed to memory, and in the evening a short discourse is addressed to the assembled school, adapted to the various phases of schoolboy life; to its peculiar temptations, to its exhibition of faults and failings, as well as to its manifestation of the generous and self-denying characteristics not unknown or rare at school. As the scholars advance in age and position, they are solemnly reminded of their increased moral and religious responsibility; that being no longer children, and therefore less the subjects of rule, regulation, and precept, Christian principle should constitute their rule of life.

MECHANICS' INSTITUTES.

Dr. PANKHURST read a paper on "The Union of Lancashire and Cheshire Institutes," of which the following is an abstract:—The organisation of the Educational Institutes of Lancashire and Cheshire is founded upon a sense of the solid and substantial advantages which have been felt to arise from concerted action in regard to the objects which they individually and collectively propose to accomplish.

The chief objects of the Union may be shortly stated to be—1. To equalise the educational facilities and opportunities of the several districts within the sphere of its operations. 2. To establish modes of procedure which, while retaining their character of uniformity in all essentials, may be sufficiently flexible to adapt themselves to the necessities and conditions of particular localities. 3. To help the Institutes in union in their efforts to make provision for a regular course of instruction through the medium of a connected system of classes. 4. To afford opportunity to the Institutes to secure the services of competent teachers. 5. To supply information upon, and make provision for conducting the several examinations which are from time to time held, of the members of the Institutes. 6. To arrange for, and conduct a special examination of an elementary character. 7. To give increased incentives to the members of the Institutes, to submit themselves to examination by granting special prizes, and by arranging for the public distribution of the prizes and certificates earned. 8. To furnish help and assistance through the periodical visitation of a duly constituted agent.

The constitution of the Union, by which these several objects are sought to be compassed, stands substantially as follows:—1. In addition to a number of Vice-Presidents, and a general Council, the practical working of the association is directed by an annually elected executive. 2. A Visiting Agent is employed, whose time is exclusively devoted to the promotion of the educational interests of the Institutes. 3. The several Institutes are distributed into groups for purposes of visitation and examination. 4. A special Examination of an elementary character is conducted, and prizes

and certificates awarded in respect of it. 5. An Itinerating Library is provided, to which it is intended to add an Itinerating Art-Exhibition. 6. A list of paid and honorary Lecturers is furnished, to which it is proposed to add a list of paid and honorary Teachers. 7. Facilities are afforded by the formation of Local Boards and otherwise, for conducting the examinations of the Society of Arts, the Department of Science and Art, and other examining bodies.

In order to facilitate the conducting of the several Examinations held under the auspices of the Union, the Executive have arranged —1. To distribute the Institutes into groups. 2. To hold the Examinations at convenient centres. 3. To form Local Boards to superintend the Examinations.

The Union has conducted three Examinations during the past year. The Elementary Examination is intended for candidates between the ages of 12 and 16 years, and for candidates above 16 years of age, who from the insufficiency of their elementary knowledge, are not qualified for admission to the "Final Examination of the Society of Arts."

It has been found difficult to obtain the services of Certificated Science Teachers. It is confidently asserted that this difficulty would be materially diminished by rescinding the regulation of the Department which practically prohibits Elementary Teachers who have pupil teachers under their charge, from acting as Science Teachers, by refusing to admit them to payment on results.

It is felt that the regulation is altogether indefensible in point of principle, while it seriously impedes the formation of Science Classes, and is besides inconsistent with the rest of the procedure of the Committee of Council on Education, which now gives to School Committees and Teachers free action to make such arrangements as they may find expedient. The Executive of the Union have made persistent efforts to get this oppressive restriction removed.

One very remarkable feature in the history of Mechanics' Institutes is the strong and almost universal tendency to subordinate all their agencies and machinery to the promotion of class-instruction. Viewed in relation to the progress of sound education, it is impossible to overrate the importance of this feature. It is in connection with this characteristic that the movement in the direction of Working-Men's Clubs and other similar organisations stands in such intimate association with the future of Mechanics' Institutes. The movement is a very real and valuable part of education. It constitutes an opportunity of applying to the lives of the hard-working members of the community, richer and more varied resources in reference to pleasure and recreation. The social element of the club-room will, in many instances, prove a door of entrance to the class-room. In it, too, tastes might be cultivated, and sentiments awakened, which might lead to a higher culture.

It seems evident that the labours of the Union should, in reference to immediately educational objects, be energetically directed

towards giving prominence to three points at least in the working of the several Institutes, viz.:—1. To press upon each Institute the great importance of founding such a system of classes, as shall place within the reach of every member the elements of a sound and useful education. 2. To urge the application of the most earnest efforts, to introduce into all branches of the elementary instruction the utmost possible soundness and accuracy. 3. To assist the arranging in every district, for the employment of one or two efficient teachers, who may itinerate through the several parts of the district. The great utility of this last arrangement, in many directions, is very manifest. It is here that the principle of co-operation and mutual helpfulness may act with eminent effect. That teaching power which any single institute would be quite unable to provide by its unassisted efforts, becomes easily procurable where several institutes are so grouped together. It may be added, that wherever the experiment has been tried, it has been attended with surprisingly successful results. On the whole, then, the Union may be said to have proved not unequal to the purposes for which it was instituted, though its operations have been, as might have been expected, much affected by the circumstance of the distress which has greatly prejudiced the progress of some institutes, and imperilled the very existence of others. The Union collects, organises, and applies whatever is most useful in the general action and procedure, to the end that the best experience of each may be made common to all. And while it tends to improve the method of teaching, and raise the standard of attainment, it helps also to diffuse through the whole system a higher order of life and purpose.

WORKING MEN'S CLUBS.

The Rev. H. Solly read a paper "On Working Men's Clubs and Institutes." Its object was to trace the origin and organic principles of the Working Men's Club and Institute movement, and to show that these institutions must gradually aim at the complete culture and social enjoyment of working men, if they are to be permanent. He maintained, that while they should begin with the simplest forms of relaxation, they must lead up to the higher aims of Working Men's Colleges, and that if they had an organic principle of life in them, they would inevitably grow into higher forms.

EDUCATION OF FARM SERVANTS.

The Rev. F. Digby Legard read a paper "On the Education of Farm Servants." He stated, that on the Yorkshire wolds it was the custom for farm servants to live under their master's roof, some farmers having as many as thirty young men and boys in their service. There was great complaint of the character and conduct of the class, which Mr. Legard traced to the want of education and moral control. Farm boys leave school at the age of nine or ten,

and soon forget all that they learn there; the farmers pay no regard to moral character in hiring the lads, and exercise no moral control over them. Mr. Legard advocated the establishment of evening classes for farm servants, but said that the co-operation of the masters was necessary in order to secure attendance on the part of the youths, and that this co-operation had yet to be obtained.

Miss MARY SIMPSON also contributed a paper "On the Life and Training of Farm Boys," in which she dwelt in detail on the evils pointed out by Mr. Legard. This paper has been published elsewhere.

THE HALF-TIME SYSTEM.

The Rev. H. G. EARNSHAW read a paper "On the Necessity and Facilities for a further Extension of the Factory Act, with Special Reference to the Half-time System." He described the causes that had led to the adoption of the Factory Act as a protective measure for the children employed in the factories, and showed that it had been most beneficial in its operation, and ought to be extended to other classes of the community.

DISCUSSION.

Mr. AKROYD gave some interesting details of the working of the half-time system in his large establishment. He and his father had been opposed to the introduction of the measure, but after it was carried they had striven to give it their most earnest and practical support. The result of the steps they had taken, by the establishment of schools, &c., was that they have now in the schools at the Copley Mills, 273 girls and 240 boys; at Haley Mill, 332 girls and 330 boys, making a total of 1,175. The schools they had established for persons not employed in their mills were attended by 242 infants; the Women's Institute by 54 women; and the Working Men's College by 162 adult males; making an aggregate total of 1,633 persons who were receiving some degree of education. Throughout the whole of the West Riding similar educational machinery had been called into operation for the benefit of the half-time workers. It had been said that the Factory Act had not been a complete success, but that arose not from the operation of the Act itself, but from one particular portion of it which enabled employers to employ "full-timers" without their previously having attended any school whatever. He reviewed the means that the Act provided for the education of children, and showed that they were to a great extent inoperative because there was no provision for compelling the attendance of the children at school until the age of 13. Their labour was beneficial to their parents, and the latter had not sufficient regard for the interests of their offspring, and their own ultimate good, to restrain them from taking them away from school at a tender age. All the prize systems that had been devised had failed, and would fail unless they could compel the attendance of children up to 13 or 14 years. He advocated the extension of the principle embodied in the Act to all classes of workers, and argued from experience that the measure which had been so beneficial to the children in the factory towns would be equally advantageous for those in the agricultural districts. The system had been tried with success by Mr. Paget, in Nottinghamshire, and by Lord Hatherton. It was clear that in proportion as we elevated the substratum of society, we must raise the whole of the superincumbent strata; and he thought there were powerful means for effecting this end placed in their hands by the Factory Act. The quality of their workmen, as workers, had been improved. Since the full benefit of the Factory Act had been shown in the character of their workpeople, they had hardly had any serious misunderstanding with them. There had been no

such thing as a serious strike. He and his firm had to deal now with an intelligent body of men: and when any little disagreement as to wages arose, they found that they were able to settle all difficulties in the course of a short interview with their leading workmen. As the result of the superior intelligence on the part of their workmen—an intelligence that was the offspring of the Factory Act—a much better feeling had prevailed between employers and employed in their works.

REFORMATORY SCHOOLS.

The Rev. I. Fish read a paper entitled "The Curriculum of a Reformatory," showing the method of education in a reformatory school. The material on which the teacher operated was probably the most unpromising to be found in the land. It consisted of children whose simple qualification was crime. The first requisite, therefore, was provision for safe custody. School instruction formed, as might be supposed, a primary element in reformatory training. Of the last 100 boys admitted to the Castle Howard Reformatory only 30 were able to read, and of these only 12 could read well, The instruction given there did not go much beyond the three R's, but a great deal was learnt in the course of learning these; religious training was made a special subject. The next great division of discipline was labour, and whether considered in its relation to health and the proper development of bodily powers, or in its influence on the mental and moral life of criminals, it was invaluable. After referring to other matters of detail respecting reformatories, the paper stated that the result up to this time was most gratifying, as 70 per cent. of those who passed through reformatories became industrious and honest, instead of remaining a pest to society.

SCHOOLS OF ART.

Mr J. C. Swallow, in a paper on the "Relation of Schools of Art to the Government," after tracing the history of Schools of Design from their first establishment in 1837, the establishment of the Department of Science and Art in 1852, the minutes of 1862-3, and the Government inquiry in 1864, pointing out the manner in which the provincial schools had been starved in order to benefit South Kensington Museum, said he considered schools of art had not paid, and in all probability never would; therefore it was the duty of the State to contribute to their maintenance. That was done by the Government, who had voted upwards of £100,000 for the purpose, but only about £10,000 of this sum reached the London district and provincial schools. The combined association of masters and committees were about to ask Parliament for a direct grant of £20,000. It was of the partial manner in which the grant had hitherto been distributed that the provincial schools of art complained. Mr. Swallow proposed that elementary art should be taught in every school; that there should be a more extended system for grammar

and all middle-class schools; a professorship of art at the colleges; a visiting artist at all the public galleries where students are admitted to copy; that the provincial schools should be schools of painting, sculpture, and ornament, with picture galleries and museums attached to them, and the staff of teachers should be thoroughly efficient. There should be no training school for masters, but a central board of examiners, the same in constitution as the College of Surgeons, to grant diplomas and travelling lectureships. The South Kensington Museum should only be the depository for feeding the local museums, and not the exhibition for the whole country. To the carrying out of such a system, three things would be necessary—local subscriptions, a liberal scale of fees, and a liberal assistance from the Government. By these means such a development of natural taste in art would be produced as would raise this country to the highest pinnacle of artistic fame.

HEALTH.

Report of the Standing Committee of the Department.

ACTS OF PARLIAMENT.

THE Sanitary Legislation of the session has been chiefly in the direction of extending protection to various classes of workers, especially women and children, against overwork and unwholesome conditions of employment.

An Act has been passed extending the Factory Acts to a number of employments in which women and children are extensively engaged. The Act contains provisions for the ventilation of the premises, and for securing personal cleanliness to the workpeople—27 & 28 Vict. c. 48.

The Bleaching and Dyeing Works Acts Extension Act has the same object in view, protecting "women, young persons, and children employed for hire in any building or premises whatever in finishing, hooking, or lapping, making up and packing any yarn or cloth of cotton, wool, silk or flax, any of them, or any mixture or any yarn or cloth of any other material or materials or any such processes" —27 & 28 Vict. c. 98.

An Act to extend the protection afforded to the children and young people employed by chimney sweepers has been passed. It makes it unlawful for chimney sweepers to employ children under ten for any purpose whatever out of their own houses or places of business—27 & 28 Vict. c. 37.

The Public and Refreshment Houses Act orders the closing of such houses in London and its liberties between the hours of one and four, and makes the Act permissive as regards all corporate boroughs—27 & 28 Vict. c. 64.

Contagious Diseases Act. An Act for the prevention of contagious diseases at certain naval and military stations providing for the inspection of military and naval hospitals, &c.—27 & 28 Vict. c. 85.

REPORTS OF COMMISSIONS AND COMMITTEES, &c.

The Sixth Annual Report of the Medical Officer of the Privy Council contains much valuable matter under the heads of:—I. Public Vaccination. II. The Distribution of Disease. III. Outbreaks of Contagious Disease.

Under the first Mr. Simon reports further evidence of the unsatisfactory working of the present system of public vaccination. The

Reports of Dr. Seaton and Dr. Buchanan for London, trace the frequency of epidemic smallpox and its fatality in London to the great extent to which vaccination is still neglected, and to the imperfect and insufficient way in which it is frequently performed. The neglect arises from the indifference of the parents, and their want of confidence in the operation as performed at present. The Report points out what vaccinating arrangements in a large town ought to be. It recommends in order to secure the necessary supervision and uniformity of action, that vaccination should be a metropolitan, instead of a parochial charge. Smallpox, which in the Grand Duchy of Baden, for eight consecutive years, and for thirteen in Copenhagen, took away not a single life, killed last year in London 2,000. Dr. Seaton reports, as the result of his inquiry in Yorkshire, Herefordshire, and Wales, that he found no large or middle sized towns properly protected against smallpox. In the North and East Ridings of Yorkshire, great neglect of vaccination prevails. In 1857-59, smallpox was epidemic, and excessively fatal throughout these Ridings. It broke out afresh in 1862, and prevailed at the time of inspection. York, and Whitby were the centres of the plague. In York, the mortality was very serious. The disease began to spread in August and September, 1862, and did not reach its period of greatest fatality till January, 1863. At the time of inspection, when the epidemic had not terminated, the deaths had reached 100, or proportionally more than threefold the mortality which created such just alarm in the metropolis last year. Dr. Seaton strongly recommends a better system of registration, and of appointment of operators and systematic supervision.

Under the head of "Distribution of disease in England, and the circumstances by which it is regulated," the inquiry into the preventible mortality of the country is continued. The circumstances examined and reported upon, are—the food of the poorer labouring classes; the causes of sea scurvy in the mercantile marine; the occupations of workers in lead and mercury, of printers, tailors, and dressmakers; and the effects of residence in marsh districts.

The inquiry into the food of the poorer labouring classes was conducted by Dr. Edward Smith. The households visited were, England and Wales 553, Scotland 29, Ireland 52. Mr. Simon, in summing up the results of the inquiry, says, "The wives and children of the examined agricultural populations, and doubtless to some extent the labourers themselves, are, in some counties, miserably fed. The worst deficiencies, however, were found among in-door operatives. They, taken as a whole, are so ill-fed that assuredly among them there must be many instances of severe and injurious privation. Dr. Smith made an estimate of the quantity of food absolutely necessary to avert starvation diseases, and he found whole classes of the population living below that standard. The average state of health of those living thus was unsatisfactory, though those only were selected for examination who, as to industry, thrift, and capability for labour, fairly represented their class."

The lowest fed class included in the inquiry is the class of needlewomen. Their average income was 3*s.* 11¼*d.* per week, and the cost of food obtained was 2*s.* 7*d.* per adult weekly. They showed an exceedingly feeble state of health—some subsisting on bread and butter and tea, three times a day. Their case requires more extended investigation. Of all the in-door workers, silk-weavers, needlewomen, kid-glovers, shoemakers, and stocking-weavers, he says "the average quantity of food supplied was too little for health and strength." This does not seem to be the case with agricultural labourers, so far as the results of the inquiry go, though in England the wives and young children of the labourer are under-fed, and all have less food in winter than in summer, though more is required. They are better fed than the town poor, the great deficiency in their dietary being want of milk, the abundance of which in Scotland and Ireland makes up for every deficiency. Concerning hurtful occupations, working in lead and mercury are this year reported on. Of the former, the inquiry, as far as it goes, shows that ventilation of the work places and personal cleanliness in the workers do much to render it harmless. Only two occupations require the use of mercury—water-gilding and mirror-silvering. Their hurtful effects cannot be altogether escaped, and are greatly increased by the want of ventilation and cleanliness.

Extensive inquiries have been made into the condition of in-door workers generally; and the concurrent testimony is that wherever a number of workers are employed together in any in-door industry, want of ventilation converts the employment, however harmless in itself, into one seriously dangerous to health: "Thus," Mr. Simon remarks, explaining the fact that "in proportion as the people of a district are attracted to any collective in-door occupation, in such proportion, other things being equal, the district death-rate by lung diseases will be increased." For every 100 in the agricultural districts who die of lung disease, there die in Nottingham 192, and in Manchester 263. Women engaged in straw plaiting die at the rate of 578 to 219 men of the same district, lace-making women 617 to 301 men of their district, and so on; while, in standard agricultural districts, the men and women who fall by lung disease are, as nearly as possible, equal. The inquiries of last year relate, more especially, to three large London industries—dressmaking, tailoring, and printing. In all of these the conditions are more or less unhealthy through overcrowding and overwork. Dressmakers work generally in badly ventilated rooms. In the season, for about four months in the year, their hours of work are, as a rule, fourteen per day, and, when there is pressure, for days together seventeen or even eighteen hours. At other times of the year the work of the in-door hands ranges from ten to fourteen hours, and uniformly the work of the out-door hands is twelve or thirteen hours. Concerning the health of dressmakers no special statistics were attainable, but the general state of health is not good. The London printers and tailors suffer still more severely. At the age of thirty-five to forty-five the

mortality of London tailors is fifty-seven per cent. higher, and the mortality of London printers 117 per cent. higher than that of the male agricultural population. At the age of forty-five to fifty-five, London tailors have twice, and London printers more than twice, the mortality of the agriculturalists. The evidence of the Report shows this excess to be due to the preventible causes of overcrowding and overwork. "The condition of the machine boys in the printing trade," says Dr. Smith, "demands instant amelioration;" and the evidence minutely details the common case of a boy working two days and a night without intermission, which certainly justifies such a demand.

Mr. Simon thus closes this part of his Report: "In the interest of myriads of labouring men and women, whose lives are now needlessly afflicted and shortened by the infinite physical suffering which their mere employment engenders, I would venture to express my hope that, universally, the sanitary circumstances of labour may at least so far be brought within appropriate provisions of the law that the effective ventilation of all in-door work-places may be ensured, and that, in every naturally insalubrious occupation, the specific health-endangering influence may, as far as practicable, be reduced."

An inquiry into the prevalence of marsh-disease was conducted by Dr. Whitley. The evidence shows that, as regards England generally, agues and other marsh diseases have been steadily decreasing both in frequency and severity, owing mainly to improved land drainage. It was, however, found that, in the undrained districts, malarious diseases were still common, and the fact was, for the first time, made apparent "that, in some entirely rural marsh districts, the habitual mortality of young children is almost as great as in the most infanticidal of our factory towns." A further inquiry was made on this "unexpected fact" by Dr. Hunter, in Lincolnshire, with the result of showing, that the infant mortality of the district was due to the employment of mothers in out-door labour, the children perishing of neglect, drugging, and want of nutriment.

HEALTH OF THE ARMY.

The Statistical, Sanitary, and Medical Reports of the Army Medical Department, 1862, are just issued. The Report states a satisfactory reduction in the rates of sickness and mortality as compared with the previous year among the troops serving in the United Kingdom. At the Mediteranean stations, the sickness and mortality has been low: unusually high in Canada, and the West Indies. The tables show a decrease in the admissions into hospital of soldiers in the Indian army in all the three presidencies; but most marked in Bengal. The mortality in Bengal has been one-third below the average of the two preceding years. The Report notices an important document relative to the French army; the first report published by authority of the French government on the health of the troops. It shows that the cases of sickness in the French army are 2½ times as numerous as in the British; the mortality of the British soldier is ·87 below that of the French soldier. The Sanitary

Report contains an important paper on the progress of hygiene for 1863.

It was stated in the House of Commons on behalf of government, that land has been allotted to soldiers and is being cultivated by them at Aldershot, Warley, Woolwich, and Colchester; that the best results have followed, and that this means of occupation for the men will be extended as much as possible. The soldiers are also to be occupied in trades, as far as is consistent with military duty and discipline.

THE SEWAGE OF TOWNS.

The question of what is to be done with the sewage of towns—whether it is practicable and would be profitable to employ it in enriching the land, instead of as at present sending it to pollute the waters, has made a considerable advance, by the report of a committee of the House of Commons, appointed to "inquire into any plans for dealing with the sewage of the Metropolis and other large towns, with a view to its utilisation for agricultural purposes;" it was also ordered: "that it be an instruction to the committee to inquire into the effects of discharging the sewage into brooks or rivers." The committee sat fifteen days, and then agreed to the Report, consisting in substance of two decisions; that it would be profitable to convey the sewage of towns in a liquid state to the country, for the fertilising of the land, and that it has become "imperatively necessary" that the conducting of sewage and other refuse matters into the rivers should be discontinued. The committee recommend that the entire river basins should be under one control for the purpose of purification.

THE SEWAGE OF TOWNS.*

Disposal of Town Sewage. By ROBERT RAWLINSON, C.E.

THE best mode of dealing with the sewage of towns has excited much interest, having also involved costly experiments and elaborate inquiries during the last ten years. Evidence will be found recorded in numerous pamphlets on the subject, as also in several official Reports and Blue Books, the most recent of which is dated July 14, 1864.

If Reports and Blue Book evidence could have settled the question, "How best to dispose of Town Sewage," it would not have been necessary to have re-opened any discussion in this Department. The evidence is, however, so widely various, that an outside

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* For Discussion see Summary of the Department.

inquirer is fairly bewildered in the mass of contradiction offered to his notice.

The inquiry relative to the disposal of sewage has been met, in some recent instances, with a demand to abolish sewers and return to "a judicious use of cess-pools."

Those who advocate a return to cess-pools cannot, however, have made themselves thoroughly acquainted with the evils involved in a retention of refuse near and within dwelling houses until putrid fermentation sets in and the most deadly forms of disease prevail. Modern sewerage and drainage works have, by a discharge of sewage, in many cases unquestionably fouled rivers, and there is a strong desire expressed on behalf of proprietors and populations resident on the banks of rivers to prevent such fouling by forbidding any discharge of town or house sewage into their streams.

Town sewering and the proper disposal of town sewage involve sanitary questions of vital importance to the entire community—questions which have not been fully discussed, because they do not seem to have been fairly comprehended as forming the basis of sanitary science.

The laws of sanitary science as applicable to town sewering, house draining, and river improvements, may be considered under the following heads :—

Sewers and drains may be so designed, constructed, and managed, as regularly and unceasingly to transmit all subsoil water, all foul water, and closet refuse, from the vicinity of houses and from urban areas to some outlet or outlets.

Sewage should not be turned direct into rivers or streams, so as to become the cause of nuisance.

Sewage may be disinfected, chemically, by perchloride of iron ; or by cream of lime, so as to separate all matters mechanically suspended in the sewage : the effluent water may be applied to land, or may be discharged into rivers having a continuous flow and the water from which rivers is not required for domestic uses.

Irrigation of land by water is probably as old as civilisation. The waters of the Nile irrigated the lands of Egypt from time immemorial, and irrigate them to this day. There are vast ruins in Ceylon and in central India of "bunds," reservoirs, tanks, and conduits which were used for irrigation before the Christian era. In China rivers, lakes, and canals are made to aid artificial irrigation, and were so used when Great Britain was inhabited by painted savages ; and there are remnants of canals and water conduits in Mexico and Peru, formed by a race of men who are only known by leagues of what were once water conduits, and by vast ruins of temples buried in almost impenetrable forests.

Throughout the whole of the East water has been economised and used from times beyond the records of written history. Wells were dug by the patriarchs and conduits and tanks were formed by the kings of Israel.

There are modern works of irrigation on a great scale in British

India, and in parts of Spain, as also in Northern Italy. Italian irrigation is fully described by Mr. Baird Smith, in a "Report on the Agricultural Canals of Piedmont and Lombardy," in two volumes (1852).

The information contained in these volumes is so much to the point, in some respects, as showing how vast volumes of water are regularly and continuously disposed of for purposes of land irrigation, that I have made a short abstract. The entire volume of London sewage is only a fraction compared to the bulk of water used in Piedmont and Lombardy.

In Piedmont some 1,500,000 of acres are under irrigation; the volume of water at command is stated to be 8,290 cubic feet per second, conveyed through 1,200 lineal miles of canals, and distributed by numerous minor open surface carriers and irrigating channels; the volume of water passed on to and through the irrigated land varies from 5,000 up to 12,000 tons per statute acre per annum.

In Lombardy also vast areas of land are under irrigation. In round numbers some 9,350 square miles, or about 6,000,000 of acres. The volume of lake river and spring water at command is estimated at 30,730 cubic feet per second, or about 100 times the estimated volume of sewage flowing from the entire metropolitan area. In the valley of the Thames there are about 3,500,000 acres, and the dry weather flow of the Thames may be stated as about 1,000 cubic feet per second, so that it appears a volume of water equal to thirty times the dry weather flow of the Thames is used for purposes of irrigation in Lombardy.

The irrigated soil of Piedmont and Lombardy consists, for the most part, of deep beds of gravel overlaid by light sands through which water finds its way with facility, even (as reported) to depths of 300 feet vertical. In the plains there are marsh and heavy lands requiring to be drained; vast areas are grazed by horses, cattle, pigs, and other stock, the manure made serving to enrich the soil.

A sewage farm ought to be connected with a dairy farm, in which case a portion of the land would be under sewage irrigation, and other portions of land could be enriched by the waste straw and manure from cattle.

The climate of Piedmont and Lombardy is favourable to a large use of water. In May, June, July, and August the mean temperature throughout the irrigated region ranges from 70° to 75° Fahr., and the maximum from 85° to 90°. At Milan, the temperature is, at times, 94°, at Brescia 93°, at Lodi 91°, and at Mantua 98°; the hygrometer showing an extraordinary degree of dryness in the atmosphere during the season of irrigation. With such subsoil, gravel and sand, such temperatures, 70° to 98° Fahr., and with such dryness of atmosphere, water for the land is of the utmost importance. During winter the entire district is, however, in a state of extreme humidity, approaching closely to total saturation.

The fall of rain in the irrigated region is about 38 inches annually. The fall of rain is, however, confined to few days as compared with England. In Piedmont there are about 24 rainy days, and in

Lombardy about 71 rainy days during the year. On an average, in northern Italy, there are about 200 clear days of sunshine, 125 cloudy days, and only 40 days on which rain falls. For little less than half the year the sky at Milan is unclouded, at Lodi more than half the year, and at Brescia for two-thirds of the entire year the sun's light and heat are unchecked by cloud, so that we can comprehend how subsoil and climate allow 30,000,000* of tons of water per day to be passed over irrigated portions of land with advantage. The pecuniary results obtained vary from £5 per acre, in the country, up to £10, and even £20 per acre per annum in the suburbs of Milan and other towns.

Nature has done much for northern Italy in having provided mountain, rivulet, lake, river, and plain. Lombardy is bounded on the north by mountains capped with coverings of snow; there is a large drainage area situate from 1,000 to 3,000 feet and rising in mountain peaks 15,000 feet above the sea. This area is studded with lakes, of which Lago Maggiore is chief; this single lake having a superficial area of water of 47,280 acres, and an outlet elevation of 638 feet above the sea. Springs, rivulets, and streams feed the lakes, which act as huge natural storage reservoirs, out of which rivers and rivulets flow down into and through the vast sunny plains below. Artificial waterworks in Great Britain sink into insignificance when compared with the arrangements provided by nature above the plains of Lombardy; even the huge "bunds" and reservoirs, tanks and conduits of Ceylon and of India are small in magnitude when compared with the lakes of northern Italy. Nature lifts the water in vapour and in cloud, to precipitate and store it so as to be available for human uses. For irrigation in Piedmont and Lombardy there is no artificial steam and engine power requisite. The fuel is in the sun, the lifting apparatus is in the clouds.

In Great Britain there are many towns and places where nature offers no corresponding advantages; sewage, to be used on land, must be raised by steam power; and climate and seasons may be unfavourable. Land may, however, be made to filter sewage, and it will be the most efficient and cheapest filter to use, but the arrangement ought to be contemplated with all its disadvantages. Towns require to be purified, houses must be drained, rivers should not be fouled; land alone constitutes an efficient filter for sewage. The process will pay in many instances, and where it will not be directly remunerative in produce from the land it will be worth the extra cost, in promoting comfort and health.

To understand the modern sewage question correctly, as connected with private comfort and public health, the practices of former times, and their effects, must be considered.

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* Suppose these 30,000,000 tons of water required to be lifted some 350 feet vertical by steam-engine power, would the plains of Piedmont and Lombardy be irrigated? Some of the schemes for the metropolis are almost as extravagant as this would be.

Man has polluted rivers, in some degree, from the time of his creation, but the construction of sewers for towns and drains for houses came in with advancing knowledge. The first sewers and drains were formed for convenience, to arch over a natural watercourse in the vicinity of houses, as the Cloaca Maxima in Rome and the Fleet river in London. Sewers and drains, as now used, are a modern contrivance. Drains have been found in the ruin mounds of the East; as, also, beneath the Colosseum and other Roman structures. But, as stated, this is the age of sewers and drains in England. Those who wish to live free from sewers and drains, have only to step over to some of the continental cities, where the luxury of filth and foul smells may be experienced in full ripeness.

The history of leprosy, plague, black fever, sweating sickness, and the modern scourges of man, typhus and cholera, when studied, show that all sanitary law has been and is systematically broken. Human ordure festered and putrified within and about every human dwelling; houses, in streets, were so constructed as to impede ventilation and shut out sunlight, and this state of things remains in many towns to this day. There is at present a great outcry against fouling rivers by town sewage; and, no doubt, much discomfort is caused by this process; but with a population of 3,000,000 in London, and 17,000,000 in the rest of England, there is, comparatively, a low death-rate; very much lower than when rivers were free from sewage in the "good old times." When the population of England and Wales did not exceed 5,000,000 souls, the occasional destruction by plague, in London, and in other cities, mounted, in a year, to a moiety of the entire population, "the living and well were not sufficiently numerous to bury the dead."

In 1665 the population of London was estimated to be 384,000, and the deaths by plague, in September and October of that year, mounted up to 8,500 per week. If such rate of mortality could take place in modern London, with a population estimated to be nearly 3,000,000, the deaths per week would mount up to 60,000, and if a moiety of such population could be taken away, the deaths in a year would be 1,500,000.

All the elements of plague and cholera exist in the world at this day; we have the evidences in accounts from India and the foul cities of the East, where plague is ever present. This year yellow fever is ravaging some of our West Indian Islands, and a medical commission is investigating causes of leprosy in British Indian possessions.

A student of history may learn much as to the sanitary defects of past times from books; he may read in the pages of Macaulay how England looked to a traveller 200 years ago, when horsemen foundered on the shortest journey, before MacAdam levelled and drained roads, covering their surfaces with stones broken small and evenly; when cities and towns were without sewers and drains, without street pavements, without lights, without police; in dry weather, all dungheap, filth, and dust; and, in wet weather, all

putrid garbage and mud. But if the same student would rather have ocular demonstration, see with his eyes, smell with his nose, tread with his feet, and breathe with every respiration, let him visit the continent; Russia, Italy, the dominions of the Sultan, India, and China, and in these countries he may now investigate cause and effect in putrid filth and plague, in foul cities, and in high rates of mortality. The improved sanitary condition of some of our cities and towns may then be thoroughly investigated, and the question may be again asked, "Shall we return to a use of cess-pools?"

The modern sewering of towns and draining of houses has, no doubt, led to the fouling of streams and rivers; but, and this must be fully considered, the value of human life has been increased in proportion as cesspools and cesspits have been abolished, and water-closet refuse has been removed in water.

The beneficial effects of sewers, drains, and waterclosets, in improving health, are recorded regularly in the Registrar-General's returns. Notable instances have been mentioned as having taken place at Salisbury, at Worthing, and at Ely. Dr. Letheby regularly records a rate of mortality for the city of London which no other capital in the world can parallel. The mortality of the metropolis is lower than that of Liverpool, Manchester, Birmingham, Leeds, Sheffield, or of any other great town in the United Kingdom; and it is a fact that in London, under the advice of Edwin Chadwick, common privies, cesspools and cesspits have been systematically abolished, and tubular drains and waterclosets have been substituted; promoting health, preventing pauperism and crime, and lengthening human life. In the other large towns named the local civic authorities have not, as yet, learned so much of sanitary science. They believe in cesspits, or they dread sewerage rates; when at the same time hand to mouth rating, for piecemeal work, is by far the heaviest form of local taxation.

Many persons, who oppose improvements, frighten themselves, and others, with the bugbear of heavy sanitary rates. They assert that sewers' rates will not be less than 5*s.* and may be even 10*s.* in the pound. A list of actual rates, levied for complete systems of main sewers, may be useful. If any sceptic doubts the correctness of the figures, a note of inquiry to the clerk to the local board in each town will produce a reply. A personal visit will, however, enable the inquirer to examine the works.

In the city of Carlisle the annual rate for a complete system of sewers is 6*d.* in the pound, spread over thirty years.

	Rates in the Pound to pay Interest and to repay Capital in 30 years. *d.*		Rates in the Pound to pay Interest and to repay Capital in 30 years. *d.*
Alnwick	4¾	Ormskirk	4¾
Berwick	4¼	Penrith	4¾
Chorley	5¾	Tynemouth	6
Lancaster	4¼	Worksop	5¾
Morpeth	5¾		

And at similar annual rates, varying according to local circumstances, other towns may have a complete system of sewers and drains which shall regularly remove all fluid and soil refuse as fast as generated, to some outlet or outlets. There are few towns possessing local government in which an annual sewers rate, as great if not greater than the amounts named, is not levied and expended on works inefficient in use, because fragmentary and imperfect in design.

The popular local economist is generally ignorant of sanitary science; prevention, with such a man, is not better than cure; he has probably been born with a stupid head, a hard heart, and a strong constitution; eats, drinks, breathes, and exists; "stinks" he declares are wholesome, and he instances nightmen, tallow-melters, butchers, and ends up with "Look at me, Sir; stinks don't kill me." If such a man could be forced to visit the abodes of misery and vice, the seats of typhus, and could be made to feel in his own flesh and blood some of the sickness and misery endured by the poor wretched tenants from whom he or his agents wring cottage rents, conviction might, in time, reach his heart. It is, however, difficult to teach persons having a supposed pocket interest in nuisances that there are worse forms of taxation than sanitary rates. The Registrar-General in his report on the mortality of cholera in England, 1848-49, wrote, "If a foreign army had landed on the coast of England, seized all the seaports, sent detachments over the surrounding districts, ravaged the population through summer, after harvest destroyed more than a thousand lives a day for several days in succession, and in the year had slain 53,293 men, women, and children, the task of registering the dead would be inexpressibly painful, and the pain is not greatly diminished by the circumstance that a pestilence found in so many cities, towns, and districts poisonous putrid matters ready to destroy this number of inhabitants."

Plague, cholera, and typhus have one common origin—fermenting filth, foul air, and squalor. There must be soil, seed, rain, and sunshine to produce herbage and grain; there must be the elements necessary to zymotic disease before it can prevail*.

A full list of inventions to supersede ordinary waterclosets would in some respects be amusing, if not very interesting: dry box closets, oil closets, gas closets, eureka closets, and numerous other forms of closet, have been brought forward, a few have even been patented: and from time to time additions are made to the list. Every invention of this sort however, involves some form of external

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* Sanitary improvements in Salisbury have reduced the death-rate from 27 in each 1,000 to 20 in each 1,000. For 1 year out of the 9 years, after improvement, the total deaths were only 14 in 1,000.

At Cheltenham the death-rate has been reduced by improved works from 22 to 16 in each 1,000. At Worthing, from 25 to 15½ in one 1,000. At Lancaster, from 28 to 22 in each 1,000. In Leeds, Sheffield, Brighton, Birmingham, Liverpool, and Manchester, high death-rates prevail; from 25 to 31 in each 1,000.

and independent action, the privacy of the house must be invaded, and any irregularity leads to great inconvenience.

The common privy and cesspit is a great nuisance, especially in towns. The cesspit is most frequently placed in small yards behind houses, beneath living rooms, and even beneath bed-rooms, crowded in amongst thickly built cottages, so as to foul the subsoil below and the air above; very frequently the festering wet soil filters through cottage walls or floods the cottage floor, causing discomfort, disease, and death. Parish surgeons and medical men who visit the poor have borne witness, on numerous occasions, to the evils of town cesspits. Local registrars record the heaviest death-rates in such districts; the relieving officer spends most of the parish money among the wretched inhabitants; the labour goes on week by week, year by year, and must go on so long as this form of poisoning on a great scale is continued.

In Liverpool and in Manchester, cesspits, though private nuisances, are public property; the municipal governments claim the right to empty them. The word "cleanse" is used in the municipal records; cesspits are emptied, but they are never cleansed. In this process of emptying there is a vast amount of human suffering. Not unfrequently the foul refuse must be carried or wheeled through houses, on all occasions it must be removed into the streets, and those only who have experienced the sickening smell can fully understand the misery endured by the unfortunate inhabitants given up to the operations of nightmen. This operation is not only foul and mischievous, but unremunerative to the extent of 50 per cent. of the entire outlay. That is, if it costs £20,000 per annum to empty the middens and cesspits in Manchester, the sale of manure and ashes will not produce more than half this amount. The pecuniary loss to the inhabitants in damaged health cannot so readily be estimated.

As compared with privy and cesspit the watercloset is a vast improvement, and if drain, sewer, water supply, and water-closet, are complete, no fouling of house atmosphere or of urban subsoil can take place. From a well-drained house, and completely sewered town, all refuse is removed at a rate of at least one mile per hour. Where water-closets have been once introduced into any town, and there are now thousands in use, who shall turn that community back to the miseries of privies, middens, cesspools, cesspits, and midnight scavengers? Dry closets, of every form, are social abominations in a town. There must be, with such apparatus, individual manipulation for removal, multiplied by every home, and a recurring nuisance in every such removal.

The proper disposal of sewage is one of the most interesting questions of the day; Parliament has inquired into it, a royal commission has investigated it, chemists have analysed and reported as to the manurial value of the ingredients in town sewage, companies have been formed to work patents for treating sewage, so as to separate the solids, but such companies have signally failed. Some few attempts have been made to apply liquid sewage direct to land

for agricultural uses, but no actual and unmistakable results have as yet been realised, generally applicable to towns. Edinburgh and Croydon are both exceptional in some respects. Large volumes of sewage, at both these places, flow direct into and over land peculiarly fitted by nature to produce results in many respects favourable. In neither case is there steam-engine power required for pumping, nor is there any expensive distributing plant, or distributing piping. The sewage is flooded on to the land without stint, producing heavy grazing crops. Below Edinburgh some of the land has been continuously irrigated for more than 200 years without diminution of crop. Land is the proper place for liquid sewage, and in every instance where liquid sewage, in its discharge from sewers, is liable to become a nuisance, the local authorities ought to be compelled to filter their sewage through land, if even at a pecuniary loss in the process. Towns can afford to pay the necessary costs of works capable of preventing disease. Liverpool and Manchester, as stated, each pay some £8,000 or £10,000 annually to remove foul cesspit matter, which has worked incalculable mischief. It cannot therefore be considered any extravagance if such sum should be expended in utterly abolishing cesspits, by a regular and continuous removal of cesspit matter in a fluid state on to and over land, so as to cause nuisance to no one.

That town sewage has value as a manure has been proved by every chemist of name. Liebig, Lawes, Way, Gilbert, Hoffman, and others give it a money value of from ½*d.* to 2*d.* per ton of fluid. Professor Way, however, affords a key to one form of difficulty, namely, the cost of application, which may in some cases be more than the value of the manure in the water. As, for instance, a ton of quartz, he states by way of illustration, may contain one ounce of gold, but, if the value of an ounce of gold is due, paying a ton of quartz is not paying the amount of the debt; there may, however, only be one ounce in ten, twenty, fifty or one hundred tons of quartz, so that in no case can the full value of the gold be obtained, and there is necessarily a point at which any attempt to extract the gold must result in a total loss, and this loss will be in proportion to the poverty of the quartz, and so of town sewage; there is manurial value in it, as sewage, but steam power, distributing plant, value of land, cost of labour, and extravagant works may utterly destroy all chance of a remunerative income.

Town sewage has been dealt with by several processes. At Birmingham there is merely skimming and separating of solids by precipitation in tanks; the sewage water, slightly clarified, flowing into the river Tame direct from the tanks. The dry weather volume of the sewage at Birmingham is about 12,000,000 gallons per day, the amount of sediment removed from the subsiding tanks is about 25,000 tons per annum. This sediment is, principally, road grit, worn and washed from road and street, mixed with true sewage matter. The tanks are regularly emptied, but the material is or was, for the most part, unsaleable, even at so low a price as sixpence per ton. The refuse comes out in the form of sludge, and cannot be

readily dried so as to be made portable. The annual cost to the corporation (which is all loss) is some £5,000 sterling per annum. The river is still tainted, and the adjoining land is injured rather than benefited. Birmingham sewage contains some ingredients, such as "pickle waste," acids in which brass articles have been washed, as also other forms of waste chemicals. There is, however, no evidence proving that sewage so composed will be injurious to vegetation.

There are some five hundred cities, towns, and districts having the powers of the Local Government Act, but in very few, as yet, is sewage, in its liquid form, turned to any beneficial account, excepting at Rugby, Watford, Carlisle, Croydon and Worthing. Liquid sewage is spread over the land at Croydon by gravitation, at the other places named by pumping. In some other places the sewage solids are intercepted, as at Leamington, Cheltenham, Leicester, Tottenham, Worksop, and Morpeth; but in the greatest number of places the entire sewage is wasted into the nearest river or watercourse, as at Berwick-upon-Tweed, Alnwick, Lancaster, Liverpool, and Manchester, and at most of the Lancashire towns, as also at all the towns throughout Cumberland, Northumberland, Durham, and Yorkshire, Indeed one sweeping remark may include 99 hundreds of all the cities, towns, villages, and districts in Great Britain,—there is one general waste of sewage where sewers exist.

The question of sewage utilisation has been thrown back by errors in works, which have been on too costly a scale. Large areas and light dressings have been attempted. Cheap works, small areas and heavy dressings are found however by experience to be most remunerative. In the works which have failed too much has been expected and too much has been attempted. Every chemist who has analysed sewage finds a certain manurial value in the liquid. Means and appliances how cheaply to make such manure available remain to be adopted. Experience, so far as carried, proves that fluid sewage cannot be manipulated into a solid manure so as to pay. There have been attempts at Leicester, at Tottenham, and for a time at Croydon. During the continuance and working of these solidifying sewage works there was the greatest possible amount of nuisance with no paying result. At Leicester the solid, which was expected to sell for £4 per ton, could not after a time be given away. At Birmingham the sewage sludge accumulates beyond the power to sell it at 6*d.* a ton, or even to give it. At Leamington there is an annual cost, at the outlet works, of some £400, to precipitate and remove the sludge from about 1,000,000 gallons of sewage per day. The sludge, when consolidated by drying, is given, not sold. At Cheltenham, Coventry, Worksop, and at some other places, the deposited sludge is sold at prices ranging from 1*s.* to 2*s.* per ton. This price does not, however, repay working charges, and in all these cases the fluid sewage is wasted.

To utilise fluid sewage land is required, and a regular agricultural establishment must be set up. Town Councils and Local Boards of Health have not as yet considered it a part of their duty to obtain

land by lease or by purchase—with the exception of Croydon—and here an "injunction" was necessary to compel local action.

The Croydon case settles the question, so far as it goes, namely, that irrigation, by gravity, through surface carriers and open grips over loamy ground, and producing grasses, will purify sewage water without causing nuisance, and produce a moderate income. But if the Croydon sewage had required to be lifted 350 feet vertical (the lift contemplated for vast volumes of metropolitan sewage), and if cast iron and earthenware conduit pipes (as proposed for distributing metropolitan sewage) had been laid down at a cost of some £12,000, the balance would have been against the Local Board.

The only safe mode of advancing the project of sewage application will be to commence in the simplest and cheapest form, namely, surface irrigation by gravity, as at Croydon and as at Worthing. This can be done on both sides of the Thames to a limited extent; the experiment can then, from time to time, be extended. If sewage can only be applied on a great scale with some degree of loss, as the cesspits and middens of Lancashire and Yorkshire towns are emptied at a loss (£10,000 per annum in Manchester), such loss must ultimately be borne by the rate-payer. To lease the sewage of London to a company proposing to raise and expend capital by millions sterling will be ruin to confiding shareholders and a cruel punishment to many innocent persons. The Leicester Sewage Company was supported by men of reputation, who risked their money and lost it; but many innocent persons were lured in by seeing such names on the list of shareholders; so it has been and so it will be again if the Metropolitan Board of Works is driven, by outside opinion, to act contrary to common sense and reason.

The great irrigation works in Piedmont and Lombardy may be studied with advantage; lakes and rivers are turned to account on a grand scale, vast volumes of water are conducted along open canals, and such waters are distributed by open conduits and carriers; the entire volume of water is disposed of by means of surface irrigation. The works are cheap, as compared with the cost of cast-iron mains and earthenware pipes for distribution. It may be said "Italian irrigation is by pure water, and London sewage could not be exposed in open channels." The reply is, that open canals will, in every respect be cheaper; and, practically, may be prevented from being a nuisance. Covered conduits may be adopted near to towns and near houses; but as by far the greatest length of canal and carrier must be in the country, covering such canals and carriers in such positions would be an extravagant waste of capital. Brick tanks, in which to store sewage, are not necessary, and such tanks soon become vast abominations; canal-like tanks with earth sides, should in all cases be used; the earth acts as a disinfectant; and, in such canals, greater length and area can be obtained for the outlay.

If the rivers of England are to be purified, it must be by intercepting canals to receive all fluid refuse and convey it to land for

purposes of irrigation, or to be treated with disinfectant and precipitants so as to be purified in its course. Water of the foulest kind, in regular forward motion, as in a river or in a canal, becomes comparatively pure in moderate distances. The Bridgewater canal, foul beyond description at Manchester, loses its colour and taint before reaching Runcorn, some 30 miles. All the foulest rivers and streams in Lancashire and in Yorkshire purify by similar processes, showing that contact with the soil in the bed of river and canal, and exposure to light air and oxygen in the moving river water, dissipate the impurities. This is now effected in the rudest manner in rivers and canals which are sewage-tainted, and with the greatest amount of injury and nuisance. Canals and conduits specially constructed to convey sewage to land, for irrigation, may accomplish the work of purification with the least possible injury, and probably, in time, with a pecuniary profit. The river Thames requires intercepting canals through its entire length. Such work need not be planned beyond the rateable means of the populations resident on its banks, and who now contribute to the pollution of its waters. This form of improvement may also be carried out on every polluted river in the kingdom with advantage.

CONCLUSIONS.

Medical evidence and experience prove that the modern system of sewering, draining, water-supply, and a use of waterclosets improves the health of the inhabitants.

Towns are purified, but in many instances rivers and streams are unnecessarily fouled. Putrid sewage—the sewage of cesspits, cesspools, and sewers containing foul deposits washed out by heavy falls of rain—poisons fish ; fresh sewage feeds fish.*

Sewage is injurious to all rivers out of which it is necessary to abstract water for domestic uses. The admission of sewage to such rivers should be rigidly prohibited.

Sewage is beneficial to agriculture, when applied to the land so as to cause it to act as a filter.

The available value of sewage will depend upon management, and also upon local contingencies, which can only be estimated when all the elements are known. The chemist's test and value form only one item in the problem.

Sewage irrigation works should be as simple and as economical as is possible. Gravitation and surface irrigation, as at Croydon and at Worthing, should be made available wherever practicable. If steam pumping power is necessary, canal-like tanks, carriers, and surface irrigation should be adopted. No lift should be attempted greater than is necessary to allow the sewage to flow by simple gravity.

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* That fresh sewage feeds fish is proved at Berwick-upon-Tweed, at Morpeth, at Carlisle, Lancaster, Salisbury, and other places. According to Palladio, it was true of the Cloaca Maxima at Rome, which he states is sixteen feet in diameter. The sturgeons taken below it are the finest to be found, as they have better feeding on the filth washed out of the great sewer than any others.

Sewage irrigation may be carried on over the same ground for an indefinite period, as is proved by some of the land near Edinburgh, which has been regularly irrigated upwards of two centuries.

No known or tried form of precipitating sewage so as to obtain a portable solid manure has ever been made to pay in Great Britain.

The utilisation, so as to purify town sewage, ought to be imperative, as at Croydon.

Experiment, so far as carried, indicates that comparatively large volumes of sewage (5,000 tons per annum per acre) pay better than the distribution of smaller volumes over larger areas.

Sewage is continuously produced and should be as continuously utilised. This will be accomplished most easily and cheaply by having at command a proper proportion of land to act as a filter. Sand, gravel, or combinations of sand, gravel, and loam will form the best natural filters. Heavy clay lands should be avoided, excepting for moderate irrigation, and such clay lands must be specially drained.

Sewage, as it flows from a properly sewered town, is not equally rich at all times of the twenty-four hours. In sewers which regularly discharge fresh sewage, as at Carlisle and at all towns sewered on true principles, night sewage and day sewage differ materially. At Carlisle analyses have shown that from 10 o'clock p. m. to 8 o'clock a. m. discharge from the outlet sewer (which has a gradient of 1 in 700) is almost entirely subsoil water. There is, as might be expected, an increase in volume and strength in the morning about 9 o'clock, at noon, and again from 6 to 8 o'clock p. m. In Carlisle with 35,000 inhabitants and with some 6,000 houses drained, there is no expenditure below the surface in the sewers to remove solids. The daily flow of water is sufficient to preserve them clean.

Earthenware pipes, from nine inches to four inches internal diameter, make the best house drains, and when carefully laid do not choke.

The sewering of towns, on correct principles, ought to be promoted, so as to ensure cleanliness, comfort, and health, as such improvements are of national importance, because cleanliness, comfort, and health tend to reduce pauperism, drunkenness, lunacy, and crime.

INFANT MORTALITY.

Infant Mortality. By W. D. Husband, F.R.C.S.*

THE subject I have been asked to introduce to this Department, is "What are the causes, and what are the means for the prevention, of excessive infant mortality?" I should have preferred that some one

* This paper was delivered extemporaneously by Mr. W. D. Husband, in order to open the question, and has since been revised for the press by the author.

from the busy hives of industry, where these evils are most rife, had been selected to bring this important object before you, but feeling that any deficiency on my part will be amply compensated for by the experience of Dr. Trench, Mr. Ikin, and others, I shall endeavour to lay bare the extent of the evil, to investigate some of its causes, and to offer a few suggestions for their removal or amendment.

We were told the other day, in dealing with a different subject, that on account of the mortality from a certain cause in England, there is every year a great loss in money value to the nation. With regard to that subject, I think there can be no difference of opinion; but if the mortality of adults claims the attention of this Association, so also ought that of those helpless infants. The infant, as I have said, may become a man; the seeds of disease, contracted in early life, may either cut down the tender plant altogether, or render as it grows older, a weak, ailing, feeble being, who is not an aid but a burden to the community in which he lives. Not only so, but this poor feeble being may become a parent, and thus form a fresh centre of disease, handing down those seeds of disease to children of another generation. But I may be asked—and grave doubt is often thrown on the simple statements of persons who bring forward subjects of this kind—I may be asked the question: "Is this mortality as great as you say it is?" There have been statistics given from some quarters on the subject, which I do not think can be supported, yet I will proceed to show you that there is great and excessive infant mortality; a mortality that I fancy few are aware of. And if I could extend the subject to children from one to five years of age, you would find the mortality greater than almost anyone could imagine. I shall be obliged, however, to restrict my inquiry in the first place to those infants that die under one year of age. I have taken several modes of ascertaining the rate of mortality of infants in this country. The first authority I shall give you is that of Mr. Sargant, in an able paper on the facts and results of the reports of the Registrar-General, addressed to the Statistical Society. He states that in all England, the infant death-rate, under one year, is 161 to every 1,000 deaths.

I will give you first the statistics of those districts in which the death-rate is the lowest. We find, if we take the county of Westmoreland, that out of 1,000 deaths the proportion of infant deaths is 104; in Rutland and in Surrey, the proportion is 126; and in the North Riding of Yorkshire, 136. In Herefordshire and South Wales the proportion rises to 137; in Cornwall, Cumberland, and Hertford, to 139; Kent and Middlesex, to 141; and in Oxfordshire the proportion is 140 in 1,000. But these are favourable statistics. Compare them with other counties of England, and you will find that in Lancashire we have a proportion of 192 to 1,000; in Staffordshire again, 182; the East Riding of Yorkshire, 181; Nottingham, 180; the West Riding of Yorkshire, 177; Warwickshire, 176; Leicestershire, 175; Norfolk, 174; Bedfordshire and Cambridgeshire, 172; Cheshire, 172; Huntingdonshire, 164; and London—

equal to the proportion over all England—161. The infant death-rate in the North Riding of Yorkshire is 136; and you will naturally be surprised to find it rising to 177 in the West, and to 181 in the East Riding. But it must be observed that in the North Riding there are no large towns, only a few comparatively small ones, of which Middlesbro' is the largest; while in the East Riding the Registrar-General has included York and Hull, which thus raise the proportion to 181.

But I wish it to be remembered that this is the proportion of boys only. Although it is not strictly within the limits of my paper, yet it is necessary before you can estimate the amount of misery and disease which produce infant mortality, to glance at the next four years of life. When you come to those above one and below five years of age, you find that the deaths in all England and Wales amount to 105 in 1,000; and in London, 137, or about one-third more than that of the whole of the rest of England and Wales. There are thus influences that come into play during the period between one and five years of age, especially in London, that do not seem to take effect during the first year of infant life. In Rutlandshire, again, the number is, under five and above one year, 56 in 1,000; in Westmoreland, 64; in the North Riding of Yorkshire, 66; in Huntingdonshire, 74; Wiltshire and North Wales, 80; Northamptonshire, 81; and Surrey—beyond London—84. You will observe that I gave you, first, the rate of mortality among children under one year; and to show you the influences that are going on after that period of life, I have given you some statistics of mortality from one to five years of age. The proportion of deaths during this period over the whole of England and Wales is 105; and the most favourable returns are those of the county of Rutland, showing a death-rate of 56 in 1,000. You go to those of Lancashire next, and you find a proportion of 144—nearly double the most favourable; London has 137; Durham and West Riding of Yorkshire, 112. I shall take now the death-rate under five years, and show you the proportions:—

All England	266	West Riding	287
Lancashire	336	East Riding	272
London	298	Cheshire	271
Staffordshire	208	Leicestershire	262
Warwickshire	289		

These are the facts given by Mr. Sargant, but I do not think we ought to rest satisfied with the facts given by one person. I have here the report of the Registrar-General for 1862; and I have been at the pains to go over the counties and towns, the large manufacturing places and large seaports, and endeavoured to see how far these figures, given on the authority of Mr. Sargant, will hold good. I have taken first the number of births; then the number of deaths under one year; the number under five years; and then the total number of deaths. I shall, therefore, be able to compare county with county. In Rutlandshire, then, there are, for the year, 352

births, that is, of males; only 42 died under one year, and 56 under five years; and the total deaths were 192. In Westmoreland there were 953 births; 116 died under one year, and 202 under five years; and the total deaths were 644. In the North Riding of Yorkshire there were 3,689 births; 520 died under one year, and 825 under five years; and the total deaths were 2,231. In Liverpool, again, there were 5,129 children born; of these 1,170 died under one year, and 2,282 under five years; and the total deaths were 4,725. In Lancashire, there were 49,416 male children born; of these 9,193 died under one year, and 16,364 under five years; and the total deaths were 32,903. In West Yorkshire there were 30,085 births; 5,498 children died under one year, and 8,701 under five years; and the total deaths were 18,763. In East Yorkshire there were 5,043 births; 859 children died under one year, and 1,302 under five years; and the total deaths there for the year were 3,166. In London, I find there were 49,382 children born; 7,762 children died under one year, and 15,172—or nearly double—died under five years; and the total deaths were 34,283. These statistics are confined to male children. I have next made a calculation of what would be the proportions of deaths in those places in 10,000 births. I find that in Rutlandshire, out of 10,000 male births, there would be 1,218 deaths under one year, while the total deaths would be 5,568; in Westmoreland, out of 10,000 male births, 1,287 would die under one year, while the total deaths would be 6,985; in North York, out of 10,000 male births, the deaths under one would be 1,275, the total deaths would amount to 6,371. Observe that in these three large agricultural districts, where there is a large area to the population, the proportions are very nearly the same. When, however, we look to the large manufacturing districts, we find that in Lancashire out of 10,000 male births, 1,860 die under one year, while the total deaths are 6,580; in West York we have 1,832 against 6,284; and in East York (including York and Hull) we have 1,718 against 6,332. This shows an immense difference in the proportions as contrasted with those of the agricultural districts, demonstrating that in those manufacturing districts the causes of mortality do produce a greater influence on those tender plants than they do on those of maturer years. The infant mortality in them far exceeds the relative adult mortality. I thought it would be interesting to ascertain the rates in the seaport towns; and I find that for every 10,000 male births, the deaths, under one year, in Liverpool would be 2,300; in Hull, 1,880; and in Bristol, 1,750; while over the whole of England the average number is 1,582.

Of the suffering and disease in those who escape, to live in after life a burden to the community and to themselves—of these we can form no estimate; but we can form an estimate of the real extent of this infant mortality. There are about 700,000 children born in this country every year. Then, if 161 per 1,000 be the average infant mortality over England, and in Westmoreland only 104 per 1,000 die under one year old, I think we have a right

to assume that from preventible causes there are dying every year in England 57 in every 1,000. If you multiply that by 436 (above 436.000 persons dying every year), you will find that nearly 25,000 children under one die in this country every year—from preventible causes. And this is a favourable view of the case, for even in Rutlandshire we must not assume that the mortality might not be lessened. We think it a shocking thing when 20,000 or 30,000 men are slaughtered in battle; yet here we have the fearful fact revealed to us that thousands of infants are annually lost from mismanagement and neglect. I may here mention that the statistics to which I refer are applicable to England and Wales alone, and not to Ireland and Scotland.

I now proceed to the causes which seem to produce this lamentable result. We find, if we take the whole of England and Wales, that the total deaths which occurred during one year—that of 1862—were, of males 56,930, and of females 44,413—making the total deaths under one year, 101,343. The total number of deaths of children under five years was 178,513—so we see that nearly one-fifth of the children born, die before they arrive at five years of age. Of these, the deaths under one year from specific causes were 98,196. I shall now run over very hastily the numbers assigned to each cause. The Registrar-General has four classes into which the causes of death are divided. The first class comprises diseases of a contagious or epidemic character; the second class, constitutional diseases; the third, local; and the fourth, developmental. Taking first the statistics in the first class, I find that there are 19,696 deaths in one year, of children under one year old, from these contagious diseases. I find that 492 cases occurred from smallpox, 1,707 from measles, 902 from scarlatina, 412 from diphtheria, 743 from croup, 5,045 from whooping-cough, 6,163 from diarrhœa and dysentery, and 589 from typhus fever. From diseases of the nervous system 21,637 deaths result; and of that number 20,261 children die in convulsions. From disease of the respiratory organs, 17,085 deaths occur; 15,749 from bronchitis and pneumonia; 1,000 children die annually from the want, avowedly, of natural nourishment from breast-milk. But it is incorrect to estimate the causes entirely by the report; because many of the other diseases otherwise arranged arise from the want of this nourishment and fresh air, although few are so registered. The difficulty is that in the report of death, not the real, but the apparent, cause is stated. It may be reported that the cause of death is teething or convulsions, while in reality the child died from neither of these causes, but from bad food or impure air. We ought hence not to consider convulsions as a primary disease; but it is a settled fact that over 20,000 children, under one year old, die every year of convulsions. On coming to the important class of developmental diseases, we find 29,351 deaths of infants occur. There are 7,704 deaths from premature birth; 1,877 from teething—which seems a small number, but there are 18,618 deaths put down to atrophy and debility, which after all may be attributed to the same

cause. There are 1,640 infants who meet with violent deaths. I shall endeavour to give you a succinct view in round numbers, which are in the main, however, pretty correct. The total deaths, under one year, in England are, you will remember, 101,343 ; and I shall now proceed to give you the proportion of the causes of these deaths. On a calculation, I find that of fevers and other infectious diseases of that kind, about one-fifth of that number die ; of constitutional diseases, one-seventeenth ; of convulsions, about one-fifth ; of diseases of the chest—bronchitis, &c.—about one-seventh ; of premature birth and teething, about one-tenth ; and of atrophy and debility between one-fifth and one-sixth. In contrast with this, I will now show the proportions in London. There were 7,762 males and 6,237 females, or 13,999 infants under one year, who died during one year in London ; and of these there were, from miasmatic disease, 2,891—about one-fifth; from convulsions, 1,905—about one-seventh; from bronchitis and pneumonia, 2,530—about one-fifth ; from premature birth and teething, 1,607—about one-eighth ; from atrophy and debility, 1,906—about one-seventh ; and from tuberculosis, 1,184—about one-twelfth of the whole number. Now, we may draw a general deduction from these facts. Out of 98,000 cases, it is found, where the causes of death are specified, nearly 92,000 children die of the diseases I have mentioned. It is not necessary, therefore, that we should inquire into the minor forms of disease. It is to the infectious and other diseases I have mentioned that we ought to turn our attention, because it is upon the causes of those diseases, it is quite evident, that the infant mortality of the country depends. Let us, then, take a hasty glance at those different causes. First, with regard to miasmatic and infectious diseases, we have the authority of those who have carefully attended to sanitary matters, that all who die of miasmatic diseases die of causes that may be easily prevented—it may be the want of sanitary regulations, which takes away that health and strength which enable a person to resist infectious or contagious disease ; for remember this, that there must be a condition of public health favourable to the diffusion of disease before it spreads to any great extent, and it depends much on the condition of the population and the sanitary regulations that prevail, whether that disease will or will not sweep away thousands from the town or locality in which it springs up. It is important to observe that everything which lowers the standard of health, depresses and enfeebles the human frame and makes it an easy prey to disease. We are to remember, then, that one-fifth, or at least one-sixth of infant deaths arise from diseases of a preventible nature—of which in the present state of sanitary knowledge there can be no doubt.

Coming now to the dietetic diseases, I notice first the effect of artificial feeding of infants, and what influence it has upon infant life. The cases of death returned as from want of breast-milk, appear to be comparatively few ; but it does greatly influence the mortality. It leads to debility and to difficult teething, and to

impaired general health; and you must not believe it to be only of that small importance which the Registrar-General's returns would lead you to suppose. From French statistics we have strong proof of the effects of the natural mode of feeding infants as compared with that of bringing them up by hand. In one part of France we find that where children are handed over to wet nurses and brought up with breast-milk, the mortality is 37·1 per cent.; but where the children are immediately after birth taken from the mother and brought up by the hand, the mortality rises to 63·9 per cent. The experience of medical men testifies that many a child that was at first healthy and strong, has pined away and become a miserable object, from the want of its natural food. This would, to a certain extent, be remedied if people had only proper notions in regard to artificial feeding. Some people seem to think that children can be brought up in any way, and that bread steeped in water, or anything else of that kind, is all that is necessary for their nourishment. The results of Dr. Smith's researches, embodied in his report to the Privy Council, show some astonishing facts in regard to this subject. There is no doubt that milk is the only substance which contains all the elements necessary for the growth of the child and the maintenance of proper temperature. We find that the quantity of milk to each person in England is 32 ounces; in Wales 85 ounces; in Scotland 12$\frac{1}{4}$$\frac{3}{4}$ ounces, and in Ireland 135 ounces per week to each person; and it is stated that—especially in the agricultural districts—a great quantity of the milk, which might go for the nourishment of children, is given to pigs, and other domestic animals. The poor people require an additional supply of milk, yet in these country places it is often wasted, rather than given to nourish the starving children. We find also that in many districts mothers prefer to earn money in the field or the factory, rather than tend their infants at home: and consequently they are sent out to nurses and brought up by the hand; they are left in the care of women who have little or no knowledge of the proper feeding of children. The infant has neither its mother's milk, nor even the only proper substitute, that of the cow. Next to the want of proper nourishment, I would mention excessive or injudicious feeding as a great cause of infant mortality. Nurses consider themselves, in many instances, wiser than nature, they over-feed the child, and it dies from the effects of cramming, which destroy the powers of digestion. Then, again, children are fed irregularly. The child is fed whenever it cries, and thus receives treatment the very contrary to the regular and systematic feeding which it requires. In this way many bad effects are produced, which would never exist if children were fed—as they ought to be—at regular intervals. This irregular feeding, therefore, is to be greatly taken into account in connection with infant mortality. We know that the development of tubercles is often the cause of some form of death in children. Every one must know what frail bodies children have, and may easily imagine that disease produced in one organ, is likely to affect other organs in so delicate a being, and

thus threaten or terminate its existence. Thus one-fifth of the children born in England die of convulsions, which are often but the symptom of other diseases; and these are largely contributed to by improper feeding and impure air. In large districts, where you see the people growing up without any regard for sanitary regulations, wherever you find a low state of physical health, there you will also find a low state of moral health. Let me speak here of the early marriages of factory girls; and I would ask you whether in their case it is to be expected that healthy children can be developed. Mr. Baker, Factory Inspector, whose district comprises Ireland, Lancaster, Chester, Warwick, and Leicester, furnishes a tabular statement, showing the numbers of marriages by persons under fifteen years of age, "in certain registration districts of Lancashire and Staffordshire." In the cotton districts of Stockport, Wigan, Bolton, Bury, and Burnley, 792 girls under fifteen years of age were married, he does not say in what period, but we presume in a year; and 252 girls under fifteen took the same step in the iron district of Wolverhampton. In short, in the cotton, silk, iron and pottery districts, early marriages by boys and girls, but more especially by the latter, are exceedingly numerous, whilst in agricultural districts—where the mortality is not so great—they are comparatively rare. With regard, then, to convulsions, I say that there are causes in operation in our large towns, that are quite sufficient to produce them. We have debility that has been produced by the folly or the vice of parents; we have improper feeding; we have impure air. It is stated that in Dublin Lying-in Hospital, every fourth child died within a fortnight of convulsions; but after pure air and ventilation were introduced into the hospital to an increased extent, the rate of infant mortality was much reduced. Parents seem to fancy that if they keep a child shut up in a close warm room, that that is the way to keep the child healthy and strong. This is quite a mistake. Pure air is certainly what the child requires; but you may let in pure air and still keep the child warm. No child can be kept really and healthfully warm in an ill-ventilated apartment. Clothe them well, but give them plenty of pure air. We come, now, to other diseases, which few parents have not seen their children suffer from, at some period of their lives; bronchitis or pneumonia, of which nearly 16,000 children die annually. It is somewhat remarkable that this disease is not so fatal in infants as in children. The mortality from this cause increases as the children get older. Here again, we find the bad effects of confinement. People fancy that if children are shut up in a warm room they cannot take cold. But what is really the result? If a child after such confinement, and after being enfeebled by the vitiated air, is taken out—say to the market at night, or to gossip with a neighbour, because the mother cannot leave it at home—that child takes cold; an affection of the lungs sets in, and from that the child dies. This is very often the case; while, if the child had been better treated at first, it would

have been able to bear exposure to the external cold air with advantage. I will say no more on this point, but may add that one great cause of infant mortality is to be found in "Dalby," "Godfrey," and all such nuisances, which are only so many excuses for improper management, negligence, and inattention. If a proper mode of feeding were adopted, and the proper and natural food given to these infants, I do not think that there would be any need for any of these baneful remedies, which are only required when mismanagement or ignorance, or, as I shall soon show, cupidity, presides over the infant's destiny.

We come now to a most important branch of the subject; to what, there can be no doubt, is a great cause of death amongst infants —and that is the employment of mothers in other than domestic duties. You will find, for instance, that there is an excessive rate of mortality in the fen districts of England. It is, certainly, satisfactory to know that those districts which formerly were vast old unproductive marshes, are now almost gardens; but that has been purchased at a cost of which very few are aware. The report by Dr. Hunter on the infant mortality of the fen districts shows the effects of the employment of the mothers of England in the field to the neglect of their infants. We have the most healthy district of England in Cumberland, where there is a large area to the population; and I think you will find it to be generally the case, that where there is a large area for each person, so there is a large amount of health. But in the fen districts, as compared with the other agricultural districts of England, we find a very high rate of mortality; and the medical officer of health who reported to the Privy Council after making an investigation on the subject, found that the great cause of that excessive mortality was the employment of female labour in that district. The mothers are employed at out-door work; and their children are left in the hands of bad nurses, or children not much older than themselves. In many cases the nurse drugs the child with opium to make it sleep; and this practice results too frequently in the death of the child. It is found that in certain families child after child is born, which as regularly dies, and the neighbours know as well as may be that the child terminates its existence, not through accidental death, or ignorance on the part of the parents, but from carelessness and deprivation of food; and I say that the responsibility for the death of a child under such circumstances lies as much at the door of the mother as if she had strangled it with a rope or cut its throat with a razor. Seventy surgeons join in testimony to the effect that want of milk and the giving of opiates are the true description of the causes of half the deaths that occur in these districts. It is not only in the fen districts, however, that this practice prevails. I think you will be told to-day that in our large towns the practice is very extensively followed, and results from the employment of female labour. Hence the necessity that has arisen in London, Manchester, and other large places for those institutions which have been established for the purpose of having

children taken care of, while their mothers are engaged at work at factories or in other occupations. This is, after all, a very poor substitute for the care and attention of a mother, and a very inadequate provision for the comfort of the child, but no doubt saves many an infant life. In the country, where the children have the chance of breathing fresh air, the evil is not so great, but when they are cooped up as they are in London, without the chance of getting access to the fresh air at all, they must suffer, and I believe that this is one great reason why the deaths above one and under five years of age in London so much exceed the average of all England. If cottages were constructed for our work-people in the country, to which they could be taken backward and forward at a cheap rate, I believe the effect would be that there would be a great decrease in infant mortality.

We have seen the extent of the evil; I have said something on its special causes; they may be stated thus: first, improper and inadequate feeding; second, impure air and bad sanitary regulations; and third, neglect and want of care, from mothers engaging in occupations that require their absence from their children. Thus we are shown that we must reform the morals and habits of the parents throughout the land; we must endeavour to keep the mothers of England in their proper place, and in their proper pursuits; we must try to keep them at home attending to the comfort of their children; and, above all, we must try to increase their intelligence, and instruct the people in those simple physiological truths, the knowledge of which would be greatly to their benefit. We must try to convince them that the observance of these sanitary regulations would turn out for their benefit, even in a money or economical point of view, and that it is more profitable to keep children in health than in sickness. We must show them that if mothers of children are engaged to work in the field or in the factory, or if they live in small ill-built houses, or in an unhealthy locality, causes of mortality and immorality will spring up, which will more than outweigh any fancied saving from a low-rented dwelling in an ill-drained district. The people must be taught these facts, the intelligence of the mothers must be raised, for we have facts to show that intelligence has something to do with this question. If we take the signing of the marriage register as indicating the intelligence of the women who are married, we find out that the marriage register is signed by 64 per cent. in England and 81 per cent. in London. It is remarkable that the infantile death-rate of London is only equal to that of the whole of England, while London must be placed under very disadvantageous circumstances; but here, you will observe, intelligence comes into play; we have a more intelligent population. Where education is low, infant mortality is the greatest. In Lancashire, for instance, where there is disgracefully low education, there is excessive infant mortality. It is quite clear that, on the whole, the mortality is most excessive in towns; and that it reaches its highest proportion in towns where working in factories is carried on to a great extent. It is higher, for instance, in

Manchester, Leeds, Bradford, and Halifax, than it is in Birmingham, Bristol, Hull, or Newcastle; and there, again, it is higher than in towns where there are no manufactures or shipping. It would be interesting to know why the causes of infant mortality vary so much in different localities—why some localities, not otherwise unhealthy, lose so many infants, for instance, from nervous diseases; and if the Registrar-General were to give this information, I am sure he would confer a great benefit upon the public. We now come to speak of the measures necessary for reducing the present excessive rate of infant mortality. I have very carefully considered the subject, and I have come to the conclusion that no legislative enactment—no Act of Parliament—will touch the evil. I believe that until you get the public mind educated to recognise to its full extent this growing evil, and to see that even in a pecuniary point of view it will be for the advantage of the public to observe those sanitary regulations, and to carry out those principles, on which alone public health can be obtained and preserved—I say that until you carry with you the minds of the fathers and mothers of England, you can never put down this evil. I think that in every district, whether town or country, there ought to be an officer of public health, who should be employed in watching over the health of that particular district. His attention should be confined to that district, and it should be part of his duty to point out or cause the removal of everything that was known to injure the health of the population. I believe that there has hitherto been a great mistake committed in the mode of appointing these officers of health. I think they ought not to be appointed by, and kept under the control of, the local authorities or the population in which they live. They ought to be appointed by the government of the country, and placed in such an independent position in the discharge of their duties, that no rate-payer could influence them in the discharge of those duties by such threats as are sometimes made. No inspector should be under local control, so as to be threatened with an hostile vote on re-election if he presumed to point out a certain nuisance and took steps for its removal. I think the inspectors should act very much as medical missionaries in the districts to which they are appointed; doing battle with this great evil, and enlightening the minds of the people on the subject, by house to house visitation. I say that we have the power to prevent, to a great extent, this excessive infant mortality; and I would hope that the government of this country may, ere long, take up this question, and recognise their obligation to diffuse sound information regarding physical health, and thus realise the aspiration of the philosophic poet of the north, for the improvement of the intellectual and moral health of the people:—

> "Oh for the coming of that glorious time
> When prizing knowledge as her noblest wealth
> And best possession, the imperial realm,
> While she exacts allegiance, shall maintain
> An obligation on her part to teach
> Those who are bound to serve her and obey."

On the undue Mortality of Infants and Children in connection with the Questions of Early Marriages, Drugging Children, Bad Nursing, Death Clubs, and Certificates of Death, &c. By J. I. Ikin, F.R.C.S.

Having been requested by the Local Committee on Health to furnish some information on these topics, with reference to the manufacturing districts, I considered the most practical and satisfactory way to obtain more information than my own practice and experience could give, was to request answers from a number of my medical brethren practising amongst the working classes in Leeds, to the following questions:

No. 1. What is your opinion of the sanitary and social results of early marriages amongst the working classes in a manufacturing town like Leeds?

No. 2. Have you in the course of your practice frequently ascertained that mothers give their children sedatives and soothing mixtures during the hours they (the mothers) are absent from home and engaged in their work?

No. 3. Is it a common practice in Leeds for the working people, especially the women, to take their children for advice to the druggists and to procure medicines, &c. from them in preference to consulting a legitimate practitioner?

No. 4. Is bad nursing of the sick, or of infants, common, in your opinion, amongst the working classes?

No. 5. What is the effect in your opinion of the system of death clubs, especially the paying of an insurance on the lives of young children?

Eleven medical men of experience were applied to, who have kindly furnished me with valuable answers.*

As regards question No. 1., referring to the sanitary and social results of early marriages, eight of the gentlemen are of opinion, in which I also concur, that the social and sanitary results of early marriages (that is before 22 years of age) are prejudicial in many ways; the mother is not qualified to bring up children, soon becomes sickly and

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* 1. Mr. Smith, Senior Consulting Surgeon to the Leeds General Infirmary, and Lecturer on Midwifery, &c., Leeds Medical School; 2. Mr. Bulmer, Surgeon to the Poor Law Guardians, Leeds Union; 3. Mr. Scattergood, Surgeon to the Hospital for Women and Children, and Lecturer on Chemistry, Leeds School of Medicine; 4. Mr. William Scott, Holbeck, Leeds, Union Medical Officer; 5. Mr. Hall, Leeds, Assistant Surgeon to the Hospital for Women and Children; 6. Dr. James Braithwaite, one of the editors of *Braithwaite's Retrospect*; 7. Mr. Seaton, Lecturer on Anatomy, Leeds School of Medicine; 8. Mr. Clayton, North Street, and Mr. Chorley, Senior Surgeon to Leeds Dispensary; 9. Mr. Cottam, Union Medical Officer, Leeds; 10. Dr. Foster, Leeds: 11. Mr. Reynolds, Chemist, and Lecturer on Chemistry, Leeds School of Medicine.

unfit for exertion ; the father is hampered with the cares of a family before he can keep them, as they ought to be kept. The offspring are frequently puny and delicate. An early marriage, even though an imprudent one, and with all its anxiety in a money point of view, is, however, preferable to young men leading a low long-continued life of vice. There is also another point connected with this subject, the importance of which, though it cannot be discussed in a non-medical society, requires a comment ; it is, without disguising the matter, the bad effects of youths and young men marrying when not in a fit state of health to do so; this is attended with the most disastrous results both to mother and child. Whilst the law is so lax and imperfect with reference to the practice of quacks, and information is witheld from the people, or they will not take proper advice, this gigantic evil, I mean the social evil, will go on, if not increase. I am aware it is much easier to preach self-control than to exercise it; but many parties not healthy would not marry, if they knew the consequences would be so serious and enduring.

As to question No. 2. Seven out of ten of the medical men consider the injurious practice of giving anodynes and sedatives to children, to keep them quiet, common in Leeds.

As to the answers to question No. 3. The evidence of the eleven surgeons, with some slight qualifications, is unanimous that the druggist and quack are applied to for advice and medicines constantly. Whilst the law continues as imperfect as it is at present about druggists prescribing, and quacks are allowed to carry on their profitable and swindling game, the public health must suffer. The health of a people is its strength, and should be as much protected by the law as goods and chattels.

As to question No. 4. Bad nursing is common according to the testimony of several of the eleven surgeons. Kindness to one another during sickness amongst the working classes is certainly a fine characteristic, and happily common, but kindness and sympathy alone do not constitute efficient and careful nursing. I consider Sisters of Mercy or Charity, or whatever name may be adopted for a tender and good nurse, are much required in all our large towns. The ordinary sick-nurse seldom knows anything about sanitary principles. Little is known about diet, and in the art of cooking England is still far behind many other nations. Nurses should be good cooks, and all sisters of charity should be able to instruct the poor on such matters, and teach them how to make a comfortable meal out of even a slender supply. It is well known how apt the French soldiers are in this respect. I should like more Miss Nightingales at the bedside.

As to question No. 5. Referring to Death Clubs, the evidence is not so strong ; still, several of the gentlemen are of opinion that they are abused, especially as regards young children. From my own experience at the Women and Children's Hospital, I have no hesitation in stating that the system of insuring children's lives is much abused, and great carelessness, if not positive crime, is

committed. I would forbid by law the lives of young children being insured. Mr. Gladstone has exposed the rotten system of many insurance societies, but he has not interfered with societies dealing with £10 insurances. The careless manner in which medical certificates of death are furnished is another evil requiring a remedy. Parents bring their almost dying children to be seen once or twice at a public institution, and then on the death of the child call for a certificate, though a week or more may have elapsed since the child was seen. I forbid parents bringing children to the hospital as out-patients when dangerously ill, and when they cannot be admitted I insist upon their calling in a medical man to attend, so that a certificate can then be legitimately furnished. I fear some of our medical friends are often induced to sign certificates against their better judgment, merely to oblige; not of course from any criminal or selfish motive, but regarding this giving a certificate for the registrar of deaths too much as a mere matter of form.

Briefly to sum up the leading conducing causes of infant mortality, the following may be enumerated, exclusive of the diseases incidental to infancy, such as teething, convulsions, whooping-cough, and diseases of the respiratory organs, which may be aggravated or even brought on by some of these causes. I may name sickly parents, hereditary complaints, scrofula, syphilis, rickets, improper or insufficient food, want of milk, intemperance of the parent, want of cleanliness, bad air, unhealthy dwellings, cellar kitchens, exposure to cold, deficient clothing, want of an open space for air and exercise, inefficient medical aid, resorting to quacks and druggists, drugging with opium, neglect and deprivation.

What are the means to remedy or rather lessen such evils? To raise the tone of society by religious and secular instruction, and the diffusion of knowledge, on all common sanitary matters; the spread of temperance; the forbidding by law of parents neglecting their infants, and leaving them for hours daily; the discontinuance of sedatives and opiates to keep their infants quiet in order to go to work; the abolition of all cellar dwellings; the avoidance of early and improvident marriages; improved construction and ventilation of houses, lodging rooms, cottages and workshops of all kinds, where a number of hands have to be congregated; good drainage, a supply of pure water, more time given to domestic work and recreation, more warm useful clothing, and less outside finery.

OVERCROWDING.

What is the Influence on Health of the Overcrowding of Dwelling-houses and Workshops? And by what means could such Overcrowding be Prevented? By GEORGE GODWIN, F.R.S., F.S.A.

THE Council of the Association, having determined on this as one of the special questions for discussion at the York meeting, have requested me to open the subject with a paper. The deep interest that I feel in it forbids me to refuse; though as I brought my views before the Department at the London meeting, in 1862,* and had urged them on the public for some years previously through various channels, I may seem to be telling an often-told tale. In this busy fighting world, however, a thing must be told many times before it will be heard; and the existing evils from inattention to this special matter are so enormous, so monstrous, so vitally important, that no amount of reiteration can be blamed or be deemed unnecessary so long as they remain unremedied.

In the paper already before the Association I gave numerous special cases of overcrowding to show its prevalence, specially on that occasion in London;—cases of overcrowding in dwelling-houses, workshops, barracks, and schools. I have re-visited within the last month many of the places described, and found them precisely in the same evil condition as before. Thus in Lincoln Court, Drury Lane, to which attention was directed, the first house examined on this last occasion contained thirty-seven persons in its eight rooms, and the second forty-five. In some of the houses, I was told, the number of the inhabitants was greater. Every room housed a family; some surreptitiously three. To get at the truth, as in all these cases, was difficult; but quite enough was admitted to prove that the conditions were not such as admit of healthful existence or decency. Of Charlotte's Buildings, Gray's Inn, the same may be said. The medical officer of that district speaks, in his last report, of small three-roomed houses, each containing seven families huddled together as closely and almost as promiscuously as sheep in a fold. In unhappy Bethnal Green, in Mile End New Town—in fact, in every direction—the same fearful state of things may be witnessed. The extent to which the evil is increased when illness prevails or death occurs can scarcely be imagined. In one room, near the Caledonian Road, Islington, were found amidst a family, a child dead from scarlet fever, and another ill with the same complaint. No washing had been done for a fortnight, and the clothes which had been worn

* See the *Transactions* for that year, p. 594.

by the sick child, and those which had been taken off the dead one, were stowed in the bottom of a cupboard, where the food of the family was kept: there were dirty slops in the room and on the staircase; the window had never been opened since the sickness began. The woman who lived here had buried three children, and the one lying dead was the fourth lost. The remaining rooms of the house were densely crowded: the drainage was not good; and two other children had died in the same place not long before. Concerning most of our provincial towns, and I have examined many of them, similar statements have to be made, and must be extended to Ireland and Scotland. The medical officer of health of Liverpool, Dr. Trench, is calling the attention of the corporation to the want of accommodation there for skilled and unskilled artisans; saying that, in spite of watchfulness on the part of the sanitary staff, the tenants of single rooms take in lodgers, to the detriment of health and comfort. He ascribes the evil to the demolition of the poorer class of dwellings in the business parts of the town, and the consequent overcrowding of those which still exist, with its natural consequence, social birds of prey. The working classes there, as elsewhere, show a srtong objection to live in the suburbs, at a distance from their place of business; and it is urged that there are still localities near the business centres of the town where dwellings for the working classes could be built profitably, either by philanthropists or speculators, and which would at the same time do away with much social discomfort and misery. I could give descriptions of crowded dog-holes seen by myself in Manchester, Leeds, Sheffield, and elsewhere, that would appal the reflective. But it cannot be necessary. A few words must be said, however, touching the country districts, as it must not be imagined that this evil is confined to large towns. I have again and again found cottages with two sleeping-rooms, very small and low, containing in one a man and his wife and six or seven children, and in the other, two, three, and even four, lodgers in the shape of farm labourers or navvies. In Buckinghamshire, in Norfolk, in Sussex, I have found at night nine, ten, and more persons in a room not large enough for healthful occupation by one; and when to this damaging proceeding are added, as is often the case, no drainage, insufficient "closet" accommodation, and decomposing refuse scattered about the outside, no wonder need be expressed at the prevalence of fever, the dying off of the children, and a low state of morality on the part of those who survive. It is scarcely necessary to multiply instances proving the universality of this evil overcrowding. Take one more utterance, and that from the Sister Isle. It is the picture of a hovel, such as is not uncommon in the western part of Ireland, given by the medical officer of health for Sligo (Dr. Tucker). It is the home of a small farmer, the tenant of a nobleman: and is twelve feet broad and twenty-four feet long. "The domestic circle, happy family, or menagerie that dwelt therein consisted," he says, "of a sick man, his wife, four daughters, one son, three cows, one horse, two calves, two pigs, and some poultry, all in one common

undivided house,—no partition." Generally the pigs were under the beds, the people in them, and the poultry overhead. The condition of the air, the sort of life enjoyed by the occupants, may be imagined.

"The breath of man is fatal to his fellows;" more than that, it is fatal to himself. Man needs for healthful breathing-space at least 500 cubic feet, with constant renewal of the air. In thousands of houses occupied as I have briefly described, each sleeper has not 100 feet of space. I have seen scores of rooms, both in town and country, where they had even less. Health under such circumstances is simply impossible. Just as certainly as the taper dwindles, and ultimately expires, in a jar from which a fresh supply of air is excluded, so does the vital power of man under similar circumstances grow less and less powerful, and ultimately cease. And even where some change in the air is going on, unless this be adequate the air becomes surcharged with poisonous matter, and does deadly work. It is now well known that there are certain diseases of which the very essence is filth,—diseases which take no hold except where putrefiable air or contaminated water affords means for their subsistence; and of these diseases tens of thousands die. Typhus fever, the disease of the prime of life, has its source especially in such impurity of air as is produced by overcrowding, and is a constant cause of death, misery, and pauperism. We have ague where we do not drain: we have fever where we overcrowd. The money-loss through typhus fever alone, during the last twenty years, would have to be stated in millions.

Even if death do not result, a low state of health becomes the rule. "Everybody in this country," exclaimed Lord Palmerston at Tiverton, the other day, "is alive;" and it expressed correctly what the Premier wished to convey. I say, however, speaking literally, that thousands in this country are only half alive, have never lived, and never either work or play with whole life. Passing the greater part of their time deprived of that without which there is no life, pure air, a low state of health becomes chronic: they exist, they do not live. An epidemic finds amongst them its ready victims. On one occasion I subjected myself to such an atmosphere for some hours, and experienced a feeling of exhaustion that was not overcome in two days afterwards. Bad air takes away appetite, depresses the spirits, lessens the vital power, and predisposes to more serious disease. A tendency is given by it to seek the temporary relief of alcoholic stimulants; while the children dwelling thus herded together lose all sense of decency, propriety, and order, and go to recruit the ranks of the dangerous classes—the products of society's ignorance and guilty carelessness—and pretty dearly has society to pay for its carelessness. I have ventured to say elsewhere, and see no reason to revoke it, that "it would be cheaper to send children thus situate to a first-class boarding-school, and put them in a way to be fairly healthy and wise, than to allow them to become, as they probably will, thieves and prostitutes. It is not even a question between prevention and cure.

Educate the children downwards to convicts, and cure is very nearly impossible. If you would do anything you must prevent."*

That great change in this material condition is necessary before any attempt to elevate, morally and intellectually, the classes to which I am alluding can be to any extent successful, I have scores of independent witnesses to testify, beyond my own conviction, the result of long and earnest consideration of the subject. The vicar of Brompton, for example (Dr. Irons), writes to me what dozens of hard-worked clergymen to whom I have put the question have replied—"It is literally impossible for the clergy to raise the condition of the population in these overcrowded places. They who aid in bringing about improvement in this respect, are coadjutors to Christian missions. May God bless their efforts." "I ask," says the Bishop of Ripon, "if all the labour of parochial clergy and city missionaries be not thrown away upon a population so circumstanced? Does not the same state of things go on from year to year? Is there any moral improvement in the mass, so long as the physical condition is unchanged? I have put the question to men who have faithfully toiled for years in these dens of London, and the answer is invariably the same. No general impression is made."

The disastrous influences, moral and physical, of overcrowding being seen, the second question now arises, How could it be prevented? In reply, I must reiterate my conviction that the first step should be the application of the Act for regulating Common Lodging-houses to all houses let in tenements to, say, more than two families; that each house so let should be registered, inspected, and regulated. Moreover, that this step should be taken immediately. To meet the cry against "interference with Englishmen's homes," and the assertion that want of means enforces the herding together that is found, I would repeat the observation, that a man is not allowed to poison with drugs or knock on the head those who are dependent on him because he is poor; neither should he be allowed on that ground, or because it is done in a room for which he pays rent, to kill them with bad air. The spread of knowledge (and this should be aided in all ways) will do something towards lessening the evil; the removal of houses wholly unfitted for occupation by a number of families, and the provision of proper dwellings at a moderate rent will do more; but even the supply of these *desiderata*, could it be effected even more immediately than seems at all likely, would not, in my opinion, obviate the necessity for the immediate interference I have called for to protect men and women against their own acts, and in defence of the rising generation and the innocent. Overcrowd a room and the infant is the first to suffer—it pines and dies. Again, the fever generated in one of the courts of the Coram Street district finds its second crop of victims in Russell Square. Nearly 300 years ago the evil was seen, and to a certain extent fought against by the infliction of penalties; for in the reign of Queen Elizabeth a decree was issued

* "Another Blow for Life." Allen & Co.

which enacted that "no owner or occupier of any cottage shall place or willingly suffer any more families than one to cohabit therein; in pain to forfeit to the lord of the leet 10*s.* a month while he so continues them together."

The view which I have been urging for some years is, I am glad to say, obtaining acceptance, as I might prove by a number of letters from all parts of the kingdom; while independent observers and writers are proposing the same remedy. Thus Dr. Mapother, the medical officer of health for Dublin, after alluding to Gill's Square, Yellow Court, the passages off Pill Lane, Beresford Street, and Greek Street, some of which I know and I can testify to their miserable condition and evil productions, says—"The chief cause which leads to such places being inhabited at all, and their never being improved, is the system of house jobbing which exists all over the poorer parts of Dublin. They are let at low rates, though indeed the highest that can be extracted from the miserable tenants, and not one penny is ever expended in trying to make them decent habitations. I believe, however, that with the energetic efforts to carry out the provisions of the Common Lodging House Act and the Towns' Amendment Act just passed, to which I am of opinion (he continues) a system of licensing the proprietors of any house under a certain value let in tenements might be advantageously added, and with aid of some wealthy and benevolent citizens, who will build fit dwellings for our city poor, the lamentable condition I have so inadequately sketched will be bettered."

The *Times* in commenting on my previous paper said—"The legislature has a right to interfere at least on behalf of the innocent victims of their landlords' or neighbours' negligence; and by fixing a statutable minimum of breathing-room in cases where such protection shall be proved to be most needed, may gradually enlighten public opinion on this subject." Other influential journals went even farther in support of the proposition, and at the conference on the dwellings of the labouring classes, held at the instance of the Council of the Society of Arts in May last, the meeting came to the resolution that the legislature might procure better dwelling-places for the poorer classes by, amongst other steps, "the improvement of the Lodging-house Act, as regards provision for sanitary purposes, and giving greater power to inspecting officers."

Very large numbers of houses in the business centres of London, tenanted by the poor and the industrious classes, have been destroyed, not only for railways, but to give place to warehouses, printing establishments, offices, and such like; and although, knowing the miserable nature of many of those houses—their total unfitness for occupation—I cannot, as some do, deplore this removal in an unqualified manner, it must be urged as a cogent reason why efforts should be made to supply fresh homes of a better character. The call for these comes from more classes than one. A respectable journeyman tailor, for example, writes as follows, and his letter represents several others addressed to me. "I hear," he says, "of

the great progress made in providing dwellings for the less affluent classes, and of the liberality of the railway companies in connection therewith. So far so good. But, sir, allow me to speak for those who are circumstanced like myself. We are compelled to live in a given locality. Our employer cannot employ workmen who live out of the neighbourhood; the master-tailor must have his hands within a few minutes' walk of his establishment. What can be done for us but altering existing buildings, such as the Alhambra, which is in the market, the old Cosmorama, also untenanted, or the empty houses in St. Martin's Court? Pray, sir, plead for us to whom cheap dwellings out of town and very low fares are of no avail. I have only to add, that as the number of houses decreases in London the rents rise accordingly."

Several large structures to be let in lodgings are in progress at this time in the metropolis, at the cost of the Corporation of London, the Peabody trustees, and other bodies, and will do some little towards supplying the want, but very little as compared with the magnitude of the population to be dealt with. In the meanwhile the old houses remain unimproved, and capitalists and speculators find it pays better to erect houses for another class.

Amongst the causes that contribute more or less to this evil, is the unequal manner in which parish rates are levied in different parts of the metropolis and elsewhere. Last year, for example, we see that, while in Mile End New Town the rating amounted to *7s.* in the pound; in St. George's, Hanover Square, it was only *2s.* 11¾*d.* There is no doubt that the heavy rates in poor districts has the effect of preventing improvements in the dwellings of the poor and industrious classes. Moreover, in places where a high levy is made, capitalists and speculators are even less disposed than elsewhere to erect such buildings as are needed, although it is in such localities they are more particularly required.

Many other points, such as the forcing of railway companies destroying dwellings to erect a certain number elsewhere; the cheapening of house-building; the improvement of existing dwellings; the desirability of laws enabling working men more easily to invest their savings in obtaining a house for themselves, occur to me for discussion; but I prefer to leave these topics to the speakers who will follow me, contenting myself with setting forth a general statement of the case, and urging the one important step, the extension of the powers of the Lodging-house Act. This, if all the other remedies were put into operation, would, I think, still be necessary to prevent the frightful loss of health and life, and the degradation of morals, produced by overcrowding.

I must now hasten to a close; but, before ending this paper (written too hurriedly, under the pressure of other occupations), must refer, though briefly, to the overcrowding that prevails in workshops, schools, barracks, and ships; and urge that the protecting supervision sought for ought not to be confined to dwelling-houses.

In some barracks, both at home and in the colonies, though the

condition of the soldier has been much improved since attention was first directed, about six years ago, to the neglect of sanitary arrangements in their rooms, continued fevers prevail, and are mainly attributable to overcrowding, aided by imperfect drainage. The same cause on board ship often leads to dreadful mortalities, not to speak of the less damage to health which escapes observation, or is wrongly attributed to other causes.

The workrooms of milliners, artificial flower-makers, and others who employ large numbers of young women and girls, remain for the most part as they were before attention had been specially directed to them, filled to danger-point and beyond it. At the close of the last season I examined the workrooms of two first-class milliners and dressmakers in the neighbourhood of Regent Street, both employing more than sixty girls, and found that each worker had not 140 cubic feet of breathing-space, instead of 500 feet. In bad weather, when the windows are shut, and worse still at night, when unventilated gas-burners are flaring in every direction, the atmosphere is poison. What wonder that the faces of many of the girls were swollen and tied up; that a certain number are usually away ill; and that consumption is a not unusual result. The census of 1861 shows that there are in London, of different ages, nearly 55,000 milliners and dressmakers—an army of martyrs needing our care. It is to be hoped that the Commission appointed in 1861 to inquire into the various employments of young persons throughout the country, and only now beginning to look for information concerning the places in which such persons are employed—without knowing something of which, as they rightly say in their first circular, no sound and practical conclusions as to the means of improving their condition can be arrived at—will make themselves fully informed as to the overcrowding of which I am speaking, with its miserable results, morally and physically; and will devise means effectually to stay it in workshops and manufactories.

To obtain a remedy for the widely-spread evil in other directions; to prevent the money loss, the lowering of health, the moral degradation, and the destruction of life it causes, I earnestly invoke the aid of all who have power to assist.

THE INFLUENCE OF OCCUPATION AND HABITS ON HEALTH.

On the Influence of Occupation and Age on the Health of those engaged in some of the Commoner Manual Employments, Illustrated by a Statistical Table, exhibiting the data on which the inferences are based. By G. SHANN, M.D. CANT., F.R.C.P.*

THE observations I am about to make are founded on the statistics afforded by the observation of cases coming under treatment at the hospital and dispensary in this city. The numbers are necessarily limited, and the area from which the cases come is confined to this locality. The trades, with the exception of the workers at glass-houses and in confectionary, are those common to all localities.

As the cases include all of the several classes coming under the notice of one observer, at the same public institutions, during a period of about ten years, they may, therefore, fairly be supposed to represent the average condition of disease amongst the respective occupations. The results being presented in the form of proportions, the ratio of error being equally liable to occur in all directions, will tend to correct itself; hence, the table, though dealing with very limited numbers, may be supposed to give an approximation to the truth, and to possess a certain amount of statistical value.

In order to ascertain, so far as might be, the influence of age on the percentage of disease, the ages were divided into three periods, and it will be well to explain the reason which led to the adoption of the periods herein given.

It is known to the medical profession, and, from the literary merit of the composition, to not a few out of the profession, that the late Sir Henry Halford wrote an able and elegant paper on what he termed the Climacteric Disease.

Sir Henry Halford was the physician of the aristocracy, and his remarks apply to that class; and the affection described represents the wearing out of the nervous system, through the agency of over wrought brain, and exhausting mental and emotional influences; the period of life at which this is supposed by the learned author to take place, is between the fiftieth and seventy-fifth years.

My observations among the operative classes led me to the conclusion, that they also have their climacteric disease, representing, not the outworn condition of the organs of thought and feeling, but the destructive effects of unremitting physical exertion on the degenerating nervous and muscular systems of organic and animal life.

This is not the occasion to enter at length on this subject; it is sufficient for my present purpose to observe, that the investigations

* See *Transactions*, 1862, p. 670.

makers and tailors; as, in like manner, the respiratory organs are proved to be amongst the out-door servants and smiths; with whom the heart shares largely the tendency to yield to disease.

In tracing the influence which trades have in determining the manner and direction in which the powers of life give way, it is interesting to observe the way in which age operates in varying the percentages of different diseases. It will be found, on instituting comparisons, that in proportion to the liability of any class to suffer in a given organ, in the same proportion is the liability to yield to the influence of disease at an earlier period of life also discoverable.

For the purpose of comparison, we will contrast the ages at which the maximum percentage of indigestion is met with amongst the tailors, as compared with all the trades taken together. This standard of comparison was adopted, on the supposition that in this group all special influences might be considered to be neutralised, by the general admixture of all. In this general group, we find that under the age of 35, the percentage of dyspepsia is 26: between the ages of 35 and 49 it is 32 per cent: and above the age of 49 it is 35 per cent.; that is, the percentage increases directly with the age. On the contrary, when we take the shoemakers, we find, below the age of 35, the percentage has risen from 26 to 62 per cent.; an increase of 36 per cent. at this age; while at all ages taken together, shoemakers only exceed the group with which they are compared by 15 per cent. Instituting a similar mode of comparison in the case of the smiths and out-door servants, in reference to their weak point, which is the organs of respiration; we find that under the age of 35, the out-door servants suffer from chronic bronchitis to the extent of 10 per cent., and the smiths to the extent of 11 per cent., above those of the same age in the group taken as the standard of comparison.

The affections, headed in the table chronic bronchitis, have a pathological import beyond what the name might seem to imply. The popular expression, old man's cough, really embodies deep and important pathological truths. It is the correct nomenclature for many a cough, or so called case of chronic bronchitis, met with in Group A, that is, amongst persons between the ages of thirty-five and forty-nine. This is one of the modes in which the failing powers of nutrition give signals of distress; ill nourished tissues necessarily imply imperfectly discharged functions, hence short breathing, altered secretion, disturbed circulation, and perverted irritability; associated with various changes of structure. The organs of respiration are thus brought into a condition which unfits them to bear the vicissitudes to which they are necessarily exposed, giving rise to winter aggravations with summer reprieves, till life's winter sets in with an intensity which no springtide renovates.

I shall conclude the observations I have to make on these statistics with a few words on the last two classifications, that is on affections of the organ of circulation and those of locomotion—on disease of the heart, that is, and rheumatism. Between these there

is the closest alliance. The two principal causes of disease of the heart are, attacks of acute rheumatism, and excessive muscular effort, especially with the arms.

An inspection of the table will at once give confirmation to these propositions. If we compare the columns which give the percentages of acute rheumatism with that exhibiting the percentage of organic disease of the heart, we shall find a close correspondence between them. Again, if we consider what classes of operatives exert the greatest amount of muscular effort with their arms, we shall have no difficulty in turning at once to the trades most afflicted with organic heart disease.

In this contemplation, the heavy smith's hammer, and the severe exertion required to keep it in action, naturally suggest themselves, and with this class we find the highest percentage of damaged hearts. Curriers are called upon for constant severe exertion with their arms, in the use of a kind of puddling instrument, with which the hides are kept in motion during their exposure to the tanning fluid, these stand next in the order of martyrs to the disease in question. Next to these come the outdoor servants, and then the general labourers, who apparently owe their position in this sequence to their special liability to attacks of acute rheumatism.

The group headed chronic rheumatism, like that of chronic bronchitis, possesses a significance beyond that implied in the name. The popular expression, growing pains, is sufficiently familiar; this is applied to certain painful sensations connected with the irregular performance of the nutritive function in the muscles and associated structures employed in locomotion, during the period when growth is most active, and exercise vigorous and ever varying.

The so-called growing pains have their counterpart in what may very well be called growing-old pains: which in their more prolonged and aggravated form, are dignified with the scientifically sounding name of chronic rheumatism. When the general powers begin to fail, exhausted by the wear and tear of life, the ill-performed reparative processes develop and diffuse throughout the system depraved secretions, allied, as is generally supposed, to lactic acid, the presence of which in the circulation gives rise to painful sensations, which assume the character of neuralgia, or chronic rheumatism, so called nosologically, but may with equal fitness, and more intelligibly, be called growing-old pains.

The numbers dealt with in the table are small; it can only be regarded as a mite contributed to the general fund of statistics, which, by accumulation, may eventually prove a mine of wealth, which future generations, engaged in working out important social science problems, may turn to practical account for the general good.

A TABLE showing the Rate per Cent. at which the several Trades suffer from Disease, as affecting the Blood, the Organs of Respiration, of Digestion, of Circulation, and of Locomotion respectively.

	All Trades taken together.	Agricultural and other Labourers.	Miscellaneous Trades.	Joiners.	Shoemakers.	Outdoor Servants.	Smiths and Fitters.
Blood Disease.							
Anœmia and Atrophy with failure of Nutrition... ...	49·4	41·1	55·0	58·3	66·7	40·5	60·1
Diseases of the Respiratory Organs.							
Phthisis, Hœmoptysis, Chronic and Sub-Acute Bronchitis and Pneumonia, Emphysema... ...	63·4	59·7	64·0	68·3	53·5	84·9	83·3
Disease of the Digestive Organs.							
Dyspepsia, Abdominal Pains, Congested Liver, and Vomiting	49·3	50·9	43·7	38·0	67·5	34·3	58·2
Heart Affections.							
Organic Disease and Feeble Dilated Heart	10·9	11·8	10·6	9·5	11·6	11·3	19·4
Affections of the Organs of Locomotion.							
Rheumatism...	19·5	26·0	18·6	13·2	11·6	16·1	13·8

	Tailors.	Indoor Servants.	Painters.	Workers in Confectionary.	Curriers.	Sawyers.	Workers at the Glasshouses.
Blood Disease.							
Anœmia and Atrophy with failure of Nutrition... ...	70·0	33·9	35·0	42·8	52·7	37·4	46·6
Diseases of the Respiratory Organs.							
Phthisis, Hœmoptysis, Chronic and Sub-Acute Bronchitis and Pneumonia, Emphysema... ...	67·4	69·7	65·0	45·7	79·1	66·2	79·9
Disease of the Digestive Organs.							
Dyspepsia, Abdominal Pains, Congested Liver, and Vomiting	62·5	36·0	25·6	48·7	57·9	25·0	26·7
Heart Affections.							
Organic Disease and Feeble Dilated Heart	7·5	3·5	10·0	5·7	10·5	6·3	6·6
Affections of the Organs of Locomotion.							
Rheumatism	9·9	12·4	22·5	25·6	15·8	18·8	26·8

On the Prevalent Causes of Rejection of Recruits enlisted in the West Riding, and Northern District. By J. I. Ikin, F.R.C.S.

Residing in the centre of the manufacturing district of the West Riding, my position as militia surgeon has afforded me ample opportunities for observing the physical state of a large number of men. From the Table No. 1 appended, it appears that up to the end of 1863 I have inspected 11,519 recruits for the line and militia. I have made an analysis of the causes of rejection out of 5,186 of this number, which is quite sufficient to indicate the most frequent causes of disability. I also append two tables, kindly furnished me by Staff Surgeon-Major Donald, of the Northern recruiting district, showing the numbers fit and unfit (1862-63), and the causes of rejection of the recruits inspected by him at the head-quarters of the Northern

recruiting district for the last two years. Till 1861 the staff of the Northern recruiting district had their office in this city; but in that year the head-quarters were removed again to Leeds, after an interval of several years' absence from it. My military duties commenced in 1853, and continuously from that date up to 1862 I was in almost constant charge of troops, either foot, cavalry,* or artillery; and was daily inspecting men, including the recruits for the marines and engineers. During the Crimean War and Indian Mutiny my experience was principally obtained, as of course the demand for men was then at its highest. My own regiment of militia was constantly furnishing men to the line—as many as 500 in one year—and the other Yorkshire militia regiments were also sending large numbers of volunteers; and as five out of the six West York regiments recruited in Leeds, a great many of these recruits were during the war seen by me, and as volunteering to the line was constantly going on, the militia regiments were at that time in perpetual removal.

As to the most frequent causes of rejection, out of 5,186 men inspected it appears from the Table No. 2 that malformation—that is, including any defect in the trunk, limbs, and fingers—was the most common cause of rejection; then age (that is, too old for service), old ulcer scars, varicocele, syphilis, and other causes; next muscular tenuity—this is a very common cause of rejection in a manufacturing district, and many military surgeons with whom I have had communication on this subject, consider that our manufacturing population are fast diminishing in both size and strength. I am not inclined to take quite the dismal view that many army surgeons entertain, as we often find great prejudices existing against a manufacturing population; and when I see the fine regiments of militia and volunteers that can muster in the West Riding, I have not that fear of the degeneration of our population that many entertain; still, this artificial state of things must, sooner or later, be injurious. All must admit it is unnatural for men to have to toil ten or twelve hours in hot rooms, heated foundries, and noisy dusty mills; still, this cannot be abolished without our commercial pre-eminence being lost or much diminished, and great distress and ruin ensuing. It is, therefore, the absolute duty both of the state and the employers of labour to curtail the hours of labour as far as prudence and the reasonable demands of trade will admit; a tired workman is never so profitable to his employers as one in health and vigour. These now happily almost universally admitted truths (since the passing of the Factory Act) apply with equal force to the numerous trades in which females are employed. If Englishmen degenerate as a nation it will be quite as much owing to intemperance and early vice as to any other cause, and to the delicacy and unsound constitution of our women as much as of our men. But to take the next most prevalent cause of our rejection, that is, disease or unsound state of the heart

* The new cavalry regiment of the 18th Hussars was formed and raised in Leeds, recruits raised and transfers coming from all parts, especially Ireland, and I was in sole charge for about nine months.

and lungs. The Table No. 3 kindly furnished me by the Registrar-General proves too clearly that consumption is unusually prevalent in the Leeds district, though of course no recruit ever presents himself in any advanced state of pulmonic disease, as his very appearance would or should prevent his enlistment. Still, a large number of young men are yearly rejected for these causes, especially affections of the heart (in a ratio of 29·44 per thousand out of 4,721 primary inspections, *vide* Army Statistical and Sanitary Reports), and under the head of unsound constitutions a number of the rejections will be owing to some affection of the lungs.

Varicose veins is a very common cause of rejection (*vide* Tables). This again is no doubt principally owing to long standing and over-work whilst young, also from the foolish and injurious fashion, now so prevalent in the manufacturing districts, of foot-racing for too long distances. Even amongst boys races of this kind are often over-done, and whilst yielding to no one in a love of manly sport and recreation, I do enter my protest against the abuse of such sports, be it either in foot-racing, walking against time long distances, jumping, boating, or steeple chasing. Many a fine lad is injured by racing, and many a splendid young fellow leaves Oxford and Cambridge more or less injured for life by over-exertion during rowing.

Unsound or delicate constitution. Many men are rejected for these causes: in the army returns the ratio is 41·80 per thousand, but under this head the statistical tables of the Army Medical Department include marks from cupping, blistering, &c., and in my own table I have done the same. In the total number of recruits for the army inspected during 1861, the greatest number of rejections were for small or deformed chests and curvature of spine, next in order comes unsound health, &c., then malformation of lower extremities, then varicose veins and varicocele. The army tables classify the causes of rejection under thirty-nine heads, which is unnecessarily diffuse, and for all practical purposes a dozen to eighteen heads are sufficient even for medical purposes. For the sake of simplicity and clearness I have on the present occasion limited the list of rejections materially, as seen in the Table No. 2.

Hernia is a frequent cause of rejection. The ratio in the army generally on primary inspection is 20·76 per thousand, on secondary inspection 10·77 per thousand—that is, in England—and a number of men are also rejected for a tendency to this complaint, that is, laxity of the abdominal ring.

Skin disease is no uncommon cause of rejection.

Scrofula and disease of the glands and bones come next on the list; the ratio in the army is 18·22 per thousand.

Defective or loss of teeth is another frequent cause of rejection; but since biting the cartridge is no longer necessary, the loss of a front tooth is not, as it was a short time ago, an insurmountable barrier to a man joining the army; the ratio in the army is 8·47 per thousand on primary inspection, and as much as 16·10 per thousand on secondary inspection.

Defective sight and disease of the eyes and eyelids cause a number of recruits to be rejected ; the ratio in the army is 20·55 per thousand on primary inspection, and 14·16 on secondary inspection. In my table it is about the latter number, as it must be borne in mind that my figures represent the number rejected out of a total of 5,186.

The deductions fairly to be drawn from this bare narrative of facts are, as might reasonably be expected, that youths and young men working too long hours at any hard labour employment whatever, or in a constrained position, as colliers, or in mills, hot workshops, in dye houses, behind counters, in foundries, stooping at desks, or sitting too long at their work as either tailors or shoemakers, working in mines, or working where the air becomes poisonous, as painters, grinders of steel, mechanics using the large hammer, &c.—I say working too long hours in these employments are the causes of the numerous cases of malformation, and a town life and impure air tend to develop scrofula where there is the least predisposition to it; and muscular tenuity, one of the most prevalent causes of rejection, is brought on and produced by the above. It must further be admitted that muscular development, width of chest, and strength of constitution, are more generally the characteristics of labourers from agricultural districts than of those living in towns. It must be added, however, that recruits from a manufacturing population are generally quick, rapid in their movements, and learn their drill more readily than those from a rural district. Many of them, understanding mechanics, quickly learn the use of the rifle, become excellent marksmen, and soon get to understand the principles on which the rifle is constructed, and answer correctly the questions of the rifle instructor. I have often noticed the ready and correct answers given by mere lads.

Much is now being done, and still more remains to be done, in the army, to promote education. The military libraries are too much neglected, and not always appreciated even by commanding officers. Much, I admit, is being done to encourage sports, innocent games, amusement and recreation ; still, notwithstanding this improved state of things, a soldier's life, either in camp, garrison, or on detachment, is too often an idle one, and is felt to be monotonously dull and tedious. Public opinion, and its mighty mouthpiece the press, are now strongly in favour of allowing soldiers off duty to employ themselves at some remunerative trade or employment ; this would have the effect of lessening the temptation to frequent public-houses, the gambling-table, the casino, the low theatre, and the brothel. I need scarcely conclude by adding that the consequences of frequenting those haunts of degradation are in a sanitary point of view most prejudicial, in a moral one, ruinous.

TABLE No. 1.

SUMMARY of Number of Line Recruits and Militia inspected.

Date.	Name.	Number.
1854—1855	Fourth West York Regiment Militia	2,061
,, ,,	Line Recruits	740
1855—1856	Line and Embodied Militia	2,318
,, ,,	Disembodied Militia	784
1857	Fourth West York Militia	810
,,	Line Recruits	382
,,	Embodied Militia	25
1858	Line Recruits (including Indian Army)	810
,,	Embodied Militia	340
,,	Fourth West York Militia	201
1859	Line Recruits	450
,,	Embodied Militia	181
,,	Fourth West York Militia	387
1860	Line Recruits	343
,,	Embodied Militia	195
,,	Fourth West York Militia	441
1861	Line Recruits	92
,,	Fourth West York Militia	417
1862	Line Recruits	75
,,	Fourth West York Militia	173
1863	Fourth West York Militia	294
	Total	11,519

TABLE No. 2.

CAUSES of Rejection out of 5,186 Recruits inspected for the Line and Embodied Militia.

Class.	Causes of Rejection	Number Rejected out of 5,186.	Ratio of Rejections per 1,000 Inspected.
1	Malformation of trunk and limbs	341	65·75
2	Age, ulcer marks, varicocele, and other causes	261	50·32
3	Muscular tenuity	178	34·32
4	Pulmonic and cardiac disease	136	26·22
5	Varicose veins	133	25·65
6	Unsound or delicate constitution, cupping marks, &c.	126	24·29
7	Skin disease	97	18·70
8	Hernia	89	17·16
9	Scrofula, diseases of bone, glands, &c.	85	16·39
10	Defective or loss of teeth	72	13·90
11	Defective sight	65	12·53
		1,583	305·23

TABLE No. 3.

POPULATION 1861.—Deaths from Phthisis, and Average Annual Rate of Mortality to 1.000 Persons living in England, West Riding, and Leeds. A Return from the Registrar-General's Office, furnished by Dr. Farr, July 12th, 1864.

——	Population, 1861.	Deaths from Phthisis.			Average Annual Rate of Mortality from Phthisis to 1,000 Persons living.
		1860.	1861.	1862.	
England and Wales ...	20,066,224	51,024	51,931	50,962	2·56
West Riding	1,530,007	4,149	4,212	4,416	2·78
Leeds	117,566	338	307	352	2·82

TABLE No. 4.

RETURNS showing the Total Number of Recruits examined at the Head Quarters of the Northern Recruiting District at Leeds, for the Years 1862 and 1863. Furnished by Surgeon-Major Donald.

Years.	Inspected.	Rejected.	Fit.
1862	811	176	635
1863	747	276	471

CAUSES OF REJECTION.

——	1862.	1863.
Syphilis	2	1
Scrofula	3	7
Phthisis	2	—
Other constitutional diseases	1	—
Disease of eyes and eyelids	38	67
Ditto ears	—	1
Deafness	1	1
Disease of heart	9	10
Ditto veins (varix)	14	20
Ditto lungs (not phthisis)	2	1
Small or malformed chest and curvature of spine...	6	12
Loss and decay of many teeth	6	10
Hernia	7	8
Laxity of abdominal rings showing tendency to hernia ...	4	13

CAUSES OF REJECTION—*continued.*

—	1862.	1863.
Diseases of urinary organs	1	2
Varicocele	20	35
Hydrocele	1	—
Other diseases of genital organs (not venereal)	3	4
Muscular tenuity	24	45
Debility	4	—
Defects of upper extremities	1	8
Ditto lower ditto	3	5
Other affections of bones and muscles	—	1
Ulcers, wounds, aud cicatrices	1	2
Other affections of cutaneous system	2	—
Malformation of chest and spine	8	—
Marks of punishment or D	6	—
Weakness of intellect	—	1
Unsound health, marks of cupping, blistering, &c.	7	22

ARMY MEDICAL DEPARTMENT.

OCCUPATION OF RECRUITS.	ENGLAND.		SCOTLAND.		IRELAND.	
	Number Examined.	Ratio per 1,000 of each Class Rejected.	Number Examined.	Ratio per 1,000 of each Class Rejected.	Number Examined.	Ratio per 1,000 of each Class Rejected.
1. Labourers, husbandmen, and servants	3,973	365	672	449	1,263	403
Rejected	1,450		302		509	
2. Manufacturing artisans, as cloth-workers, weavers, lacemakers, &c.	1,171	506	417	405	250	364
Rejected	592		169		91	
3. Mechanics, carpenters, smiths, masons; occupations favourable to physical development	1,735	359	768	421	455	429
Rejected	622		323		195	
4. Shopmen and clerks	898	324	128	484	150	480
Rejected	291		62		72	
5. Professional occupations	43	419	15	267	10	400
Rejected	18		4		4	
6. Boys	150	153	10	—	83	120
Rejected	23				10	
Total Inspected	7,970	376	2,010	428	2,211	398
Total Rejected	2,996		860		881	

The Health of Women; especially of American Women. By E. Y. ROBBINS, *Corresponding Member of the American Statistical Association, &c.*

WE cannot over-estimate the importance of the health of woman, for upon her depends, to a great degree, the health of the future generations of the race. Perhaps the three causes which operate most potently to destroy or deteriorate the health of women, or to prevent them from attaining that high degree of vitality and strength which the Creator designed that they, with all His other creatures, should enjoy, are:

First, want of sufficient fresh air to breathe, consequent upon their confinement within imperfectly ventilated houses.

Secondly, want of sufficient exercise in the open air and sunlight.

Thirdly, improprieties in dress, such as tight or close-fitting waists restraining the free action of the lungs, heart, and arms; and the unequal—the insufficient and superfluous—covering of the different parts of the system.

I shall endeavour to show the effects of these several deteriorating causes upon the health of women by citing some of the few vital statistics which have been collected in America. I say few, for the births, marriages, and deaths are registered in but few of the States, and of these only two give nearly complete and trustworthy reports, namely, Massachusetts and Rhode Island.

The greatest destroyer of life, and especially of female life, and more especially of young female life in America—as also, I believe, in this country—is pulmonary consumption. This disease destroys more lives every year in the United States than cholera ever destroyed in any year; and we all know that consumption, in the opinion of the most eminent physicians, is, more than any other disease, produced by the causes above mentioned, viz., want of air, exercise, and light, and by the prevailing improprieties and absurdities of fashion in dress, especially that of close-fitting waists, impeding the free action and expansion of the lungs.

Pulmonary consumption in Massachusetts and Rhode Island, and probably in the New England States generally, destroys from 19 to 22 per cent. of the entire population, about 25 per cent. of the entire female population, and considerably over one-third (almost one-half) of all women over 15 years of age, being as high a rate of mortality among women by this one disease as by any other eight diseases combined. In this country, I believe, the Registrar-General's reports show that pulmonary consumption cuts down prematurely one-eighth part of the inhabitants, mostly in early youth or the prime of life; destroying in England and Wales not less than 50,000 lives every year, or more than any other two, or perhaps three, of

the most fatal diseases combined; the larger part of its victims being women. Surely this is sufficient to excite an interest and an inquiry into its causes. The importance of the matter is further manifest, if we consider what Mr. Simon said: that whatever tends to produce or increase this disease in a community tends, in like proportion, to produce deterioration and degeneracy of race. Moreover, this disease is believed by many of the most eminent medical writers to originate almost entirely in artificial and preventable causes.

The vulgar notion that consumption is produced by exposure to the external air and climate is most conclusively disproved by vital statistics. If it were the coldness of climate which produced consumption directly, then in the agricultural districts of America, where the male portion of the population is more exposed to the influence of the open air than females, as women do not there labour in the fields, the former would suffer more from this disease than the latter. Exactly the reverse, however, is the fact. Thus, in Massachusetts, during five years, ending with 1860, there died of pulmonary consumption 10·061 males to 13·277 females. In Rhode Island, during the same period, the numbers were 848 males to 1,205 females. But as the two sexes are almost equally confined to the house during several of the first and last years of life, we shall better come at the truth by comparing the numbers for the intermediate periods of life. In Massachusetts during the five years ending with 1860, between the ages of 10 and 40, that period of life when males are most in the open air, in winter as well as summer, the men at work and the boys at play, while females are shut up in close warm stove rooms, there died of consumption 4,989 males and 7,630 females. In Rhode Island the proportion is about the same. In Vermont, where the population is still more generally engaged in agricultural pursuits, and, consequently, where the males are still more generally occupied in the open air, though the climate in winter is yet more severe than in Massachusetts, the mercury often sinking below zero every day for weeks together, there die of this disease between the above ages, more than twice as many females as males, the proportion for 1858 (the only one year's report which I have at hand) being as 1,000 males to 2,600 females.

The comparative healthfulness of outdoor and indoor life, or rather of the natural external air as the Creator makes it, and of the confined and vitiated air of close rooms, is strikingly illustrated by the mortuary statistics of different occupations in America, showing the average age at which persons engaged in these several occupations die. I am aware that the average age at death is not regarded by statists as being so correct a measure of the healthfulness of a district or occupation as the "expectation of life," &c.; but in the absence of the latter element the former may be of service to us, and taking the several occupations which are entered upon at about the same time, and followed through life, the comparison will prove instructive.

In the following statistics, taken from the registration tables of

Massachusetts for the seventeen years, ending December, 1860, it will be observed how the average age at death diminishes as the several occupations are carried on in a more confined and vitiated atmosphere. Thus, cultivators of the earth, who most of all live in the open air, die at the average age of 64·03 years; coopers, whose business is perfectly clean, and who in America work in shops more open and healthful than any other class of mechanics, having immense open fire-places and chimneys, and being usually built with very loose and ill-fitting windows and doors, and with many cracks in walls and roof, are next longest-lived, and die at the average age of 58·45 years; wheelwrights or waggon-makers at 54·02; blacksmiths at 52·59; carpenters at 50·31; cabinetmakers, who work in still closer shops, die at the age of 48·09 years; tanners and curriers, who have more open shops, but breathe much animal exhalation, die at 47·37 years of age; barbers at 43·73; shoemakers at 43·29; tailors at 42·55; ostlers, who inhale the filthy odours of stables, die at the age of 41·67 years; founders and furnacemen at 41·50; jewellers at 40·23; machinists, nail-makers, and tinsmiths at 39½; printers at 37·59; cigar-makers at 37·45; milliners at 37·43; operatives in cotton mills, &c., at 36·14; clerks die at the early age of 33·64, and the poor dressmaker at 33·26, scarcely more than half the age of the agriculturist. The correctness of these statistics, and the truthfulness of the conclusions drawn from them, are most convincingly confirmed by the entirely distinct and independent tables of Rhode Island, which, however, we have not time to quote.

But to return to that great destroyer of female life, consumption, and its causes, there is one feature in the registration tables of Rhode Island which I regard as being of great value, showing the liability of persons of different occupations to die of this disease, and why women suffer more than men from it. This table shows that agricultural labourers, who are more in the open air and more exposed to the influence of the climate than any other class, suffer least from consumption. Thus, from 1852 to 1858, inclusive, of the deaths by specified causes and in specified occupations, this disease produced among agriculturists 17 per cent., while among professional men it produced 40 per cent. of the mortality; and among jewellers, clerks, teachers, and tailors, whose occupations are carried on entirely within doors, and usually in a highly vitiated atmosphere, consumption produced from 50 to 70 per cent. of the deaths by specified causes. In 1860, the report for which year is the latest I have at hand, consumption produced among agriculturists less than 15 per cent. of the entire number of deaths by specified causes, while it destroyed five-elevenths of all the jewellers who died, two-thirds of all the clerks, one-half of the seamstresses, and three-fifths of the milliners.

Such are the disastrous effects of exclusion from the pure natural atmosphere which the beneficent Creator has provided for all His creatures. But women may have the purest air within-doors and the greatest amount of exercise in the open air, yet if they do not give themselves room to inhale it, it will do them little good. If by

close-fitting waists they constrain the chest so that it cannot expand freely and allow the inflation of the lungs to their full capacity, they had almost as well not have the air to breathe. The Registrar-General of England has well observed in one of his annual reports: "The high mortality of women by consumption may be ascribed partly to the indoor life which they lead, and partly to the compression of the chest by costume. In both ways they are deprived of free draughts of vital air, and the blood deposits tuberculous matter with unnatural facility."

It seems probable that the folly of tight dressing prevails most between the ages of 15 and 30. Beyond that period either tight dressing has done its work or else the ambition to have a small waist has somewhat abated. And it is sufficient to startle one who has never investigated the matter to observe what a vast proportion of the mortality among women between 15 and 30 is produced by consumption. In the New England States it actually amounts to more than half. Thus in Massachusetts during the five years from 1855 to 1859 inclusive, the entire number of females between the ages of 15 and 30 who died of all diseases was 8,777, of whom no less than 5,026 died of consumption. In Rhode Island during the same period the entire number of deaths among females between these ages was 826, of whom 447 died of consumption, being in both cases much more than half.

In England, too, the proportion of mortality among women by consumption between these ages is very great, being, according to the reports of the Registrar-General, nearly 40 per cent. of the entire female mortality during that period of life. It is true that the male death-rate by consumption also increases during this period of life, but not nearly in so great a proportion, being in America only a little more than one-half so great; the female death-rate by this disease, and between these ages, being in the three States of Massachusetts, Rhode Island, and Vermont, almost twice as great as that of males.

Again, as we advance upward into the wealthier and more fashionable classes of society, we find this folly of tight dressing and other fashionable follies to increase. Moreover, I am sorry to say that there is perhaps no nation where the morbid passion for small waists prevails to a greater degree than in America. And we see the effect in the excessive mortality by pulmonary consumption among American women. There is a very curious, and I think instructive fact shown by the registration tables of the cities of Providence and Boston—the capitals respectively of Rhode Island and Massachusetts—in regard to the comparative liability of the fashionable and unfashionable, or, which is nearly the same thing, of the native American and the foreign elements of the female population, to consumption. The tables of these two cities are the only ones in America of which I am aware that give the elements necessary to enable us to make this comparison. In both these cities—and it should be borne in mind that in cities both sexes are chiefly engaged

in indoor occupations and hence have about the same quality of air to breathe—in both these cities, while the mortality by consumption among the foreign population, who belong chiefly to the poorer and less fashionable class, is about equal with the two sexes—being very great with both, on account of the filthy and crowded state of their dwellings—the number of deaths from this disease among American women on the contrary—who as a general rule belong to the wealthier and more fashionable classes—is almost double that among American men. Thus in the city of Providence, during a period of five years ending with 1860, while of foreigners and those of foreign parentage there died by consumption 204 males to 201 females; of Americans, on the contrary, there died 176 males to 349 females. The Boston tables show a similar state of things, but not quite to so great a degree.

We are apt to attribute this greater liability of women than men to consumption, and some other diseases, to the peculiarities of the female organisation, and thus to throw all the blame upon nature. Nature, however, makes the females of all other species of animals strong and healthy, and she doubtless entertains the same good-will and intention toward those of the human race. And here the statistics of pulmonary disease come again to our aid, completely exonerating nature from all blame in the matter, and showing in the most explicit manner that this greater liability of females than males to consumption, begins not with the beginning of life nor yet with the beginning of womanhood, but between the two periods. Indeed, it is most remarkable and surprising to observe in the registration tables both of America and of England, how invariably the female death-rate by consumption begins to exceed that of males just at that period of life—between the third and fifth years of age—when the difference in the habits and dress of the two sexes becomes distinct, and has had time to begin to show its effects—boys being allowed to run more in the open air while little girls must be condemned to the house to save their complexion—that is to say, to bleach out all complexion; and also when the difference in the style and application of dress becomes complete, boys being invested in the more loose and free masculine costume, while that of little girls begins to be still more snugly drawn about the waist to give them a "neat" and "trim" appearance.

Thus the tables of vital statistics show that during the two or three first years of life, while the difference in air, habits, and dress, with the two sexes is but slight or has not yet had time to manifest any decided effect, consumption, following the general law of mortality, destroys more males than females: whereas, after that age the proportion of deaths among the two sexes by this disease changes, and more females die of consumption than males. Thus in Massachusetts during the five years from 1855 to 1859 inclusive, the mortality by this disease under the age of five was about in the proportion of nine males to eight females. After the age of five the ratio changed, and more females than males died of this disease. Thus between

five and ten years of age there died 147 males to 170 females, between ten and fifteen years of age 127 males to 284 females, and between fifteen and twenty 674 males to 1,327 females. In Rhode Island for the same period the proportion of those who died of this disease was :—Under five years of age, as 100 males to 80 females ; from five to ten years of age, as 100 males to 200 females ; from ten to fifteen, as 100 males to 300 females. This change in the relative mortality by consumption among the two sexes really takes place before the fifth year of life, though the American tables are so arranged as not to show it. In the reports of the Registrar-General of England, the time at which this change takes place is more exactly shown. Thus the four latest published reports (the only ones to which I have had access), beginning with that for 1859, show that during the four years covered by these reports, the number of deaths by consumption among children, under one year old, was 1,975 males to 1,767 females ; among those between one and two years of age, it was 1,810 males to 1,709 females. During the third year of life the proportion changed (as it does during either the third, fourth, or fifth years of age in all tables which I have inspected), and more females died of consumption than males; the numbers during the third year of life being 882 males to 953 females ; and from this age the female death-rate as compared with that of males becomes remarkably larger. Thus between the third and fourth years of life there died 528 boys to 611 girls ; between the fourth and fifth, 395 boys to 506 girls ; between the fifth and tenth, 2,223 boys to 2,613 girls ; between the tenth and fifteenth, 2,860 boys to 5,076 girls.

But though consumption is by far the most deadly, yet it is, in the opinion of all those best qualified to judge, by no means the only malady which is induced by the improprieties and follies of female fashions and habits. There are diseases of the heart, of the spine, of the nerves, and many maladies peculiar to the sex from which thousands, and indeed millions of women in America, and no doubt in this country, too, are suffering—maladies and sufferings many of which are borne in secret, and kept from the knowledge of the general public, but which would startle us, if we knew their frequency and extent, and which must entail physical and mental weakness and suffering upon the future generations of the race.

But, not only must women have air and exercise—air without the least restraint from the dress to prevent its freest and fullest inhalation in every attitude and position of the body, and during the most active exercise, but they must also enjoy the influence of sunlight. Air and sunlight cannot be separated in a sanitary point of view, and no one who would enjoy health or possess beauty can afford to do without either. Woman owes a high duty to her race—the duty of preserving and improving her own health, and so the health of the nation; for it is generally allowed, and observation proves it to be correct, that the physical condition of the mother determines to a great degree the physical condition of the child; and that a feeble

woman cannot expect to be the mother of a vigorous offspring. It is only by the women of the nation being healthy, that the nation itself can be preserved in health, and the possession of physical force and energy.

One very important matter connected with the health of women is the method of warming and ventilating houses. How can we get the most healthful air and warmth into our dwellings, schools, &c.? This will appear a most important question if we consider that the greater part of the entire lives of women is passed within doors, and also that children of both sexes, during several of the first and most susceptible and important years of their lives, are confined mainly within doors, especially in winter, and are subjected either at home or in the school-room to the healthful or unhealthful influences of the means in use for warming the air in such rooms, and which they must breathe during those years when their constitutions are being established either for health or disease.

There is not, I believe, a more healthful method of warming than by the open fire; but on account of its wastefulness of fuel it is in America very generally abandoned; and one reason, as I believe, why American women have consumption so much is the general use there of close iron stoves, hot air furnaces, and steam pipes, all of which, we have the strongest evidence to believe, injure the air, deprive it of its natural freshness and invigorating qualities, perhaps destroy some of its vital but more subtle elements. One of the ingredients, as we all know, of natural healthful air is ozone. Now, the eminent chemist, Dr. Graham, of the London University, tells us that this element which the all-wise Creator has placed in the atmosphere He has given us to breathe, and which is proved to be absolutely essential to health, is decomposed or destroyed at a temperature of 140 degrees, Fahr. If so, then we are destroying it by all our iron heating surfaces, whether hot-air stoves, furnaces, steam-pipes, or even hot-water pipes.

I have tested the air for the presence of ozone in many buildings in America warmed by low pressure steam-pipes, which cannot be heated above the boiling point of water, 212 degrees, and have failed to detect the presence of ozone in the air of rooms so warmed, even when there was an abundance of this substance in the external air. In the Capitol at Washington, which is heated by coils of steam-pipes in the basement, through which the air in great quantities is driven by powerful fans, I placed pieces of starch paper saturated with iodide of potassium in one of the registers where the air came in with a perfect blast, at the same time placing other pieces of the same test-paper in the air outside the building. After some hours, the paper in the register was found still perfectly white, while that without was changed to quite a dark colour, showing an abundance of ozone in the external air, while that which had passed among the steam-pipes (though the surface of the pipes could not have been more than 200 degrees) seemed to have been entirely deprived of this natural and necessary element of healthful air. Assuredly, we

had better lose our heat up the open chimney than save it at such an expense of health and life as this must necessitate. But if we would save our heat and fuel (and it is certainly a desirable object to attain) we may do so much more effectually, and at the same time much more healthfully, by transmitting the waste heat of the flue, or even all the heat of the fire, through a large earthen or tile surface, so large that it shall not become highly heated at any point, or through several such large non-metallic surfaces, placed in the several rooms to be warmed. Such warming surfaces may be placed in, and made to form portions of, the floor or the lower part of the walls, or both. I will not undertake to describe the particulars of such an arrangement, but only remark that I have fully tested it and proved its practicability, and also its superiority in point of healthfulness and economy of fuel over metallic surface-heating apparatuses. Unquestionably, it should be laid down as a rule, as Miss Nightingale lays it down, that we should never warm our rooms, or heat the air intended to be introduced into our rooms, by hot iron surfaces, whether close stoves, hot-air furnaces, steam-pipes, or hot-water pipes. The general use of any of these things would become a curse to the nation. The highest economy, as well as Christian benevolence, and a wise sanitary foresight dictate that we should place in the cottage of the poor man, as well as in the mansion of the rich, the most healthful means of warming and ventilation, that the women who inhabit them—the mothers of the coming generation—themselves being healthy, may give birth to and rear up healthy children who will be capable of doing the work of the nation, and not be dependent upon the nation for the support of a weak and sickly life.

Vital Statistics in Relation to the use of Intoxicating Liquors. *By the* Rev. Dawson Burns.

Every member of this Association will admit the interest and importance of any inquiry which may be prosecuted into the effect of intoxicating liquors upon health and long life. These liquors as commonly used, are seen to have so adverse an influence upon the moral tone and condition of society, so much do they add to the corruptions, vice, poverty, disorder, and crime of the community, that it is hard to conceive what reasons could be advanced for their use, but for the physical pleasure and supposed advantage attending their dietetic consumption. The social benefits evidently resulting from their renunciation, are however so great that the thoughtful philanthropist will be careful how far he encourages the once universal and still popular belief in the virtues of alcoholic beverages. He will be anxious to avoid taking up on light and insufficient grounds the notion of some necessary connection between the use of a certain

portion of spirituous or fermented drink and an efficient state of health and strength.

If he have a bias at all it must surely be in favour of evidence showing that abstainers enjoy a vigour and longevity equal to those of the most discreet consumers of articles so powerful for mischief to the moral and religious interests of the people. In short, the considerate philanthropist will not be desirous of ranging statistics in opposition to that cause of temperance which, should he even regard it as somewhat ultra, is manifestly the friend of domestic bliss, educational improvement, and sanitary reform. This wholesome rule has been signally violated in a passage in the Sixth Annual Report of the Registrar-General of births, deaths, and marriages in Scotland.

After certain statistics presented he states—"The only conclusion which seems deducible from these facts appears to be that, in so far as the statistics of these deaths go, there is no evidence to prove that the consumption of alcoholic liquors (including every form—wine, beer, spirits, &c.) or of tobacco, injures the general health of the population; on the other hand, the evidence seems rather to favour the idea that the moderate use of these articles by the mass of the people so improves their health as to act as a counterpoise to the undoubtedly injurious and fatal effects to which their abuse tends in the few."

So positive an expression of opinion in an official document, and pointed with so obvious an animus against the temperance movement, cannot be passed over. What can be on the surface more unphilosophical than the Registrar's hasty generalisation? He thinks he has evidence that in regard to diseases of the brain in a given year, abstinence was rather a disadvantage than an advantage, and he straightway applies the same rule to all diseases and during all time! His statistics are, that in 1860, 5,206 persons (2,789 males and 2,417 females) died in Scotland of brain disease; and, that including deaths from water on the brain, the mortality, in 1860, from this cause, per 100,000 of the population would stand thus:—

Under 15 Years of Age.		Above 15 Years of Age.	
Males	337	Males	217
Females	276	Females	164
Excess of Males	61	Excess of Males	53

These figures seem innocent enough; but the Registrar-General thinks he can extract from them the barb that is to pierce the temper-

ance reform. He is pleased to assume that the female sex "does not use alcoholic stimulants, or that the number who do so is so insignificant as not to affect the general results;" whereas, a reference to the returns of drunkenness for Edinburgh, Glasgow, and the other large towns of Scotland, would have shown him that this part of his argument was founded on a lamentable fallacy. It may, however, be conceded, that females drink less intoxicating liquor than men, and the fact that in females above fifteen, the deaths from brain diseases should have been as 164 to 217 of men—notwithstanding the peculiar tendency of women to many forms of nervous disorder—might have suggested, even to a non-abstainer, the probability, so creditable to the fair sex, that their greater abstemiousness had something to do with their lesser mortality from diseases of the brain. But the Registrar-General repels the compliment as though it were a calumny, and why? Because he says it is shown by a comparison between the deaths from brain diseases in persons under fifteen years and above that age, that the female superiority is greater before that age than after that age; but before that age both the sexes are abstainers (another gross and false assumption): therefore the female superiority after that age is not owing to abstinence—or rather, female abstinence as compared with male use and abuse of drink is unfavourable to exemption from fatal attacks of brain disease! Can any conclusion be more crude and empirical? At all ages females have an advantage over males, but because under a certain age the advantage is greater, therefore, above that age the advantage is not referrible to a certain habit—nay, that very habit is the cause of the advantage not being greater than it is!

Let this principle be admitted, and every motive for research into special causes will disappear; special causes will be themselves annihilated; and negative generalisations will be ground out of different sets of statistics, with much the same unprofitable and pernicious results as the attempt of the schoolmen to turn off perfect systems of metaphysics on the wheel of the Aristotelian syllogism.

See how the principle of the Registrar-General would apply to sanitary reform. A is a town well drained, B undrained; the mortality of A to B is in the proportion of seven to nine. A sanitary reformer mildly asserts that the difference as to drainage may have something to do with this difference in the mortality. Not so, affirms the Registrar-General of Scotland, for in C and D, towns both well drained, the mortality shows a still greater disproportion; nay, he is very much of opinion that there is proof here that the non-drainage of B has been concerned in lessening the disproportion that might have been expected between itself and A.

What, however, shall be said on the Registrar-General's behalf when it is proved as conclusively as the simplest sum in arithmetic—that he has drawn from his own statistics a deduction completely the opposite of the fact? His statement is that the disproportion of deaths between males and females, from disease of the brain, is greater below fifteen than above fifteen years of age; but the figures

prove the contrary. True, the excess of male deaths below fifteen was sixty-one—and above fifteen it was fifty-three, but then the number of deaths below fifteen was 613 (337+276)—and above fifteen only 381 (217+164) and it is obvious at a glance that an excess of fifty-three in 381 is greater than one of sixty-one in 613. Had the males above fifteen died from brain disease in the same proportion to females as they did before that age, instead of 217 deaths there would have been but 200. The tendency to brain disease among males in excess of the same tendency in females, is thus proved to increase after fifteen years—a fact which turns into mockery the eulogiums of the Registrar-General on the virtues of alcoholic stimulants in moderation.

With regard to the general question whether the use or disuse of alcoholic liquors is more favourable to health and longevity ?—the only rational appeal must be to the facts of history ; to personal experience ; to statistical evidence carefully collected ; and to medical testimony based on extensive observation.

1. History is rich in facts tending to prove that nations and tribes, ignorant of all intoxicating liquors, have enjoyed great vigour and longevity ;—that among nations using them there have been classes of abstainers who have been distinguished for a near approach to physical perfection, as for instance, the Nazarites, who are described as "more ruddy in body than rubies, their polishing was of sapphire ;"—and that a great deterioration has followed among uncivilised nations the introduction, and among civilised communities the extended consumption, of inebriating drinks.

2. Personal experience concerning the comparative advantage of abstinence is at this moment afforded on the widest scale by millions of persons following every species of occupation—sedentary and active, corporeal and intellectual, by land and sea. The majority of these are persons who were formerly moderate consumers of alcoholic liquors, and a large number of them persevere in this abstinence, chiefly because of the physical benefits attending it. Again, the children of abstainers are not seen to be physically inferior to other children ; and in the case of the Pitcairn Islanders we have a small community pursuing a course of unbroken abstinence for fifty years, yet who can point to a progeny of children and children's children unsurpassed for beauty, elasticity of frame, and excellence of health. In addition to this we have the testimony of eminent travellers, hunters, soldiers, voyagers, and missionaries ; as for example, Bruce, Buckingham, Napier, Havelock, Dunlop, Waterton, Franklin, Ross, Kennedy, Phillip, Williams, Moffatt, Livingstone, *cum multis aliis*, who depose to the superiority of habitual abstinence from intoxicating drinks.

3. Nor is statistical evidence absent. It may be fearlessly affirmed that all the statistical evidence yet accumulated is in favour of the entire disuse of all alcoholic beverages. Not an instance is known where any comparison fairly made has indicated a lesser degree of vitality among the abstainers. All the indications are otherwise.

Official statistics of health and mortality of the British troops in India have set in the most vivid colours the advantages of an entire avoidance of strong drink in that land of sultry heats and soaking rains. Of 26,695 English soldiers in Bengal, the percentage of soldiers belonging to the temperance society daily in hospital for one half year was 2·65 ; of other soldiers, 10·20. In the Madras Presidency, in 1849, the following was the sanatory state of five English regiments :—

——	No. of Men.	Passed through Hospital.	Died.
Temperate	4,318	6,114	100
Intemperate	9,042	2,024	41
Teetotalers	4,059	589	5

So that among the temperate the sick were 140, among the drunkards 214, and among the teetotalers 130, per cent. : as to deaths the proportion was—to each moderate drinker two drunkards, and to each teetotaler two moderate drinkers. Comparing two regiments—one with very many abstainers, the 84th, another with very few, the 63rd, the result of their residence at the very unhealthy station of Secunderabad was as follows. In the 84th, the deaths were 34·2 per thousand ; in the 63rd, 78·8 ; the general average at Secunderabad was 75·0. When at Fort St. George the 84th lost 12·1 per thousand, while the general mortality of British troops in the Madras Presidency, excluding Secunderabad, was 30·2.

Benefit societies and sick clubs have yielded some striking facts. In Preston at one time there were eight general sick clubs and three for teetotalers only. In the former 233 out of 1,000 members were annually sick ; in the latter, 139 only. The drinkers were sick on the average seven weeks and four days ; the teetotalers three weeks and two days. Each sick drinker received 2*l.* 16*s.* 1*d.* ; each sick teetotaler had need of only 1*l.* 9*s.* 2*d.* Mr. J. Hawkins, M.R.C.S., of Colet Place, Commercial Road East, London, states that he attended a temperance sick benefit society in St. George's East, which numbered 150 members, and in the course of three years but one death occurred, this being the case of a man who had formerly been a hard drinker. He also states, that the St. Ann's Temperance Benefit Society with about eighty members, has not had a single death in six years ; another of thirty members, no death in two years ; another of sixty members, no death in two years. In contrast with these cases, may be noticed a benefit society principally consisting of non-abstainers, but the admission to which is strictly regulated, and is indeed confined to members of Christian churches.

This club has increased from thirty to seventy-five members, in nine years, and according to statistics furnished by the secretary, the deaths have numbered nine within that period, at the rate of two per cent. per annum. Both in 1860 and 1863, two deaths occurred out of the seventy-five members.

Further, it may be inquired whether Life Insurance Companies are of opinion that total abstinence is unfriendly to length of days? In answer to a communication from Mr. Mudge, M.R.C.S., of Bodmin, the officers of some of the principal companies affirmed that the practice of abstinence would certainly not be regarded as an unfavourable element in the case of any applicant for insurance; and it is well known that some offices manifest peculiar solicitude to extend their business among those who, like Rechab's descendants, drink no wine. But the most satisfactory evidence yet afforded on this question, is found in the statistics of the United Kingdom Temperance and General Providence Institution, established at the close of 1840. In the first eight years of its existence its annual rate of mortality was 6 per 1,000, while the annual rate of mortality for the general population was 13 per 1,000; among lives in other offices 11, and in friendly societies 10; so that the temperance average, though this office contained several members above seventy years of age, was only equal to that of rural labourers at the age of thirty-five, or of persons at the age of fifteen—the most favourable period of life. But the comparison has been prosecuted further. When this office had existed for ten years, moderate drinkers were received as insurers, but were kept in a section distinct from the abstainers. What has been the result? According to the Registrar-General of Scotland, moderate drinkers and drunkards mixed are healthier and longer-lived than abstainers, but according to a document issued by the Directors of the Temperance and General Provident Institution, the fact is very different. They say, "Two divisions of profits have now taken place. In 1856, the surplus which had accrued to the whole life department in the temperance section gave a reversionary bonus, ranging according to the age of the assured from 35 to 75 per cent. on the amount of premiums paid; in the whole life department of the general section the bonus ranged from 23 to 50 per cent. The recent calculation of the assets and liabilities has given a further reversionary bonus to the temperance section ranging from 35 to 86 per cent., and to the general section, from 24 to 59 per cent." That this comparison has been upon an extended scale will appear when it is remarked that the policies issued by this office up to the 31st December, 1863, were 33,937, and that its capital up to June 1, 1864, amounted to £600,000, its annual income then reaching £160,000. It may be added that before the first division of profits the actuary, Mr. P. Hardy, prophesied that the abstainers would stand second best to the moderate drinkers; but he afterwards expressed himself surprised, and much enlightened, by the opposite result. The above comparison does not pretend to scientific exactness, but it is broadly

and fairly taken, and there is no reason to suspect that an investigation now proceeding at the instance of the Directors, to test this question by the most rigid rules of vital statistics, will much, if at all, unsettle the conclusion already declared. That conclusion, it is obvious, is diametrically opposed to the dictum of the Registrar-General of Scotland.

4. With regard to the testimonies of medical men who have inquired into this subject, it is enough to refer, not to individual opinions, however weighty, but to the two chief medical certificates —the one of 1839—the other of 1847. The first was signed by men of the highest celebrity, including Sir Benjamin Brodie, Dr. W. F. Chambers, Sir J. Clark, Mr. Bransby Cooper, Mr. Benjamin Travers, Dr. Marshall Hall, Dr. Herbert Mayo, Dr. Hope, Sir James Eyre, Dr. Roupell, Dr. A. Thomson, Drs. Andrew and Alexander Ure, and it affirmed; "An opinion handed down from rude and ignorant times, and imbibed by Englishmen from their youth, has become very general, that the habitual use of some portion of alcoholic drinks, as of wine, beer, or spirits, is beneficial to health, and even necessary to those subjected to habitual labour. Anatomy, physiology, and the experience of all ages and countries, when properly examined, must satisfy every mind, well informed in medical science, that the above opinion is altogether erroneous."

The second certificate, circulated under the auspices of Sir John Forbes, Dr. W. B. Carpenter, and Dr. W. A. Guy, and signed by a large proportion of the most eminent members of the faculty in Great Britain and Ireland, declared, "That a very large proportion of human misery, including poverty, disease, and crime, is induced by the use of alcoholic or fermented liquors as beverages; that the most perfect health is compatible with total abstinence from them; and that total universal abstinence would greatly contribute to the health, prosperity, morality, and happiness of the human race."

The most recent inquiries into the action of alcohol upon the human body, confirm the teachings of experience and observation, which may be summed up in one brief sentence—That the *vis naturæ* derives no real aid from the *vis vini spiritûs;* that all the measurable effects of alcohol tend to diminish vital power and to shorten life; and that no one has anything to fear, but something to hope for, in reference to health and longevity, by dissolving all fellowship between himself and the bottle.

MISCELLANEOUS.

Military Discipline and Volunteer Philanthropy. By EDMUND C. FISHER.

IT will be difficult to find two principles more seemingly antagonistic than military discipline and volunteer philanthropy. The discipline necessary for the cohesion and effectiveness of armies proceeds from set rules framed upon the experience of long years: it is cold, impassive, unimpulsive, non-eclectic, autocratic, tyrannical; it robs man of his individuality, deprives him of free-will, and, looking only at the end to be attained, treats the soldier as a simple part of a great machine, to be strained, forced, and overwrought, if needs be, and cast aside when worn out or otherwise incapacitated. Reverse the position in all its several particulars, and we have the most distant and opposite end of a far-stretching diagonal—volunteer philanthropy. What the commander of an army is in presence of the enemy, the physician and surgeon are in the sick chamber. The same law governs both their orders—the law of absolute, perfect, unhesitating obedience. Combine the two, clothe the medical professor in the garb and rank of the soldier, and you have the domineering, autocratic army surgeon, whose word is law, and with whom suggestion ever becomes interference and almost dictation.

To the mere theorist, the medical staffs of armies would appear to be all that is necessary to insure the greatest possible effectiveness of the soldier, covering him, so to speak, with defensive armour against disease and wounds, and enabling him with the minimum of danger to himself to inflict the utmost damage upon his antagonist. But the discipline of his dual profession, or, to be exact, of his military capacity, deprives the army surgeon, in a great degree, of those advantages accruing from the discoveries of science which become immediately known and are as immediately investigated and adopted by members of the civil branch of his profession. Everything connected with armies is precised in fixed regulations; "it is written" is the answer to every proposal for change; the spirit of inquiry is checked and nullified, and innovation is studiously guarded against as imperilling routine and subversive of discipline. On the battlefield or in hospital, in his twin capacity of physician and surgeon, the army medical man has difficulties to contend with unknown to the civil branch of his profession. In action he is overworked, and his aids are far too few ofttimes to render him even necessary assistance; in hospital he is bound down to his fixed code of regulations; newly-discovered remedies are not furnished by the medical purveyor, and radical change in treatment has first to receive the endorsement of his superior officer. Frequently—shall I not say generally?—his operations are on a new and unexplored field, where diseases of

novel type require lengthy research and investigation before the proper treatment is discovered; or the same class of disease, under different conditions of climate and contingent circumstances, produces new phases in the patient's symptoms. He is, in fact, isolated from most of the advantages which the great body of the profession enjoys, and the sick and wounded in his charge—the chief consideration, after all—are by so much less fortunate than the suffering in civil life.

It was the knowledge of these facts which led to the appointment of the sanitary commission in the British Army during the Crimean war, but it is open to question whether such a commission would have been permitted to exist if Miss Florence Nightingale and her co-labourers had not proved conclusively that volunteer assistance need in no way interfere with military discipline—the first consideration among soldiers—and that it could be of real practical benefit to the medical branch of the army, when their respective spheres of action were properly defined. Addressing itself to the medical staff alone, subordinating its every movement in the field and hospital to the wishes and wants of that staff; culling its experience in every region; bound down by no fixed rules or inflexible regulations, the sanitary commission might become a valuable supplementary power in the army, and an unfailing reliance of the army medical officer. Its true arena is recommendatory, its researches are in the first degree eclectic, and it brings the entire force of the whole outside medical profession to bear upon the health of the soldier. The medical staff cannot but gain by advice tendered from so high and disinterested a source, and it has no cause to fear for its own authority, when the action of the commission is purely advisory and guardedly consonant with the most rigid discipline. Military discipline, in fine, calls to its aid the volunteer philanthropy of the entire nation, and volunteer philanthropy divests itself of all things savouring of dictation, and, confining itself to suggestion, submits in its turn to discipline.

All history and experience prove that army medical staffs, no matter how thoroughly and extensively organised, are sadly deficient at critical moments. The world is accustomed to look to the French nation as the military power *par excellence* of Europe; everything appertaining to armies, to the utmost efficiency of the soldier, is there reduced to method and rule, until the art of war is so thoroughly investigated, and its rules, as it were, so completely averaged, that the art has became almost an exact science. Yet with the experiences of the battlefields of Solferino and Magenta before us, where the wounded lay for hours, yea days, without assistance, who will say that the best organised medical staff fulfils the requirements expected of it? Such staffs are really designed for the ordinary routine of military life, and, to some extent for the average amount of extra casualties entailed by battle; but a more than ordinarily sanguinary engagement and lengthy pursuit of the foe may upset the best calculations and render an otherwise effective staff utterly inefficient. It was the knowledge of this fact, gained on the field of Solferino,

which led a citizen of Geneva to attempt the formation of an universal sanitary commission. With the grand proposal of Monsieur Henri Dunant it is neither my province nor purpose to deal; but whether he succeed or fail in his enterprise, he will at all events have drawn the attention of the governments and people of Europe to a subject of momentous interest, earning for himself and his coadjutors the proud title of benefactors of the soldier.

At an early period in the history of the civil war in the United States, the citizens of the North recognised the necessity of supplementing the army medical staff. The movement commenced with the women, and took the form of preparing lint and bandages for the hospitals; but it was soon discovered that vastly more would be required by the enormous force about to be put in the field, and that much really valuable assistance might be rendered by voluntary philanthropy. Two questions presented themselves for solution: First, what kind of aid would be accepted by the War Department? —secondly, how could that assistance be rendered without infringement of military discipline, so as to be acceptable to the medical staff? The answer to these important questions could only be obtained at head-quarters, and a deputation of influential citizens was forthwith despatched to Washington. After asking for the appointment of a special commission to be charged, as the deputation expressed itself, with "preventing the evils that England and France could only investigate and deplore," the envoys demanded for it the following powers from the Government.

"1. The Commission being organised for the purposes only of inquiry and advice, asks for no legal powers, but only the official recognition and moral countenance of the Government, which will be secured by its public appointment. It asks for a recommendatory order, addressed in its favour to all officers of the Government, to further its inquiries; for permission to correspond and confer, on a confidential footing with the Medical Bureau and the War Department, proffering such suggestions and counsels as its investigation and studies may, from time to time, prompt and enable it to offer.

"2. The Commission seeks no pecuniary remuneration from the Government. Its motives being humane and patriotic, its labours will be its own reward. The assignment to them of a room in one of the public buildings, with stationery and other necessary conveniences, would meet their expectations in this direction.

"3. The Commission asks leave to sit through the war either in Washington, or when and where it may find it most convenient and useful; but it will disband should experience render its operations embarrassing to the Government, or less necessary and useful than it is now supposed they will prove.

"The general object of the Commission is, through suggestions reported from time to time to the Medical Bureau and the War Department, to bring to bear upon the health, comfort and *morale* of our troops, the fullest and ripest teachings of sanitary science in its application to military life, whether deduced from theory or practical observation, from general hygienic principles, or from the experience of the Crimean, the East Indian, and the Italian wars. Its objects are purely advisory.

"The specific points to which its attention would be directed may here be partly indicated, but in some part may depend upon the course of events, and the results of its own observations and promptings, when fairly at work. If it knew precisely what the results of its own inquiries would be, it would state them at once, without asking for that authority and those government facilities essential to a successful investigation of the subject. As the Government may select its

own Commissioners,—the persons named in the recommendation of the Medical Bureau being wholly undesirous, however willing, to serve, if other persons more deserving of the confidence of the Government and of the public can be nominated, —it is hoped that the character of the Commission will be the best warrant the Government can have that the inquiries of the Commission, both as to their nature and the manner of conducting them, will be pursued with discretion and a careful eye to avoiding impertinent and offensive interference with the legal authority and official rights of any of the bureaus with which it may be brought in contact.

"1. The Commission proposes a practical inquiry into the material of the volunteer force, with reference to the laws and usages of the several States in the matter of inspection, with the hope of assimilating their regulations with those of the army proper, alike in the appointment of medical and other officers and in the rigorous application of just rules and principles to recruiting and inspection laws. This inquiry would exhaust every topic appertaining to the original material of the army, considered as a subject of sanitary and medical care.

"2. The Commission would inquire with scientific thoroughness into the subject of diet, cooking, cooks, clothing, tents, camping grounds, transports, transitory depôts, with their exposures, camp police, with reference to settling the question, How far the regulations of the army proper are or can be practically carried out among the volunteer regiments, and what changes or modifications are desirable from their peculiar character and circumstances? Everything appertaining to outfit, cleanliness, precautions against damp, cold, heat, malaria, infection; crude, unvaried, or ill-cooked food, and an irregular or careless commissariat, would fall under this head.

"3. The Commission would inquire into the organisation of military hospitals, general and regimental; the precise regulations and routine through which the services of the patriotic women of the country may be made available as nurses; the nature and sufficiency of hospital supplies; the method of obtaining and regulating all other extra and unbought supplies contributing to the comfort of the sick; the question of ambulances and field service, and of extra medical aid; and whatever else relates to the care, relief, or cure of the sick and wounded—their investigations being guided by the highest and latest medical and military experience, and carefully adapted to the nature and wants of our immediate army, and its peculiar origin and circumstances."

There was every necessity for the establishment of such a commission with such objects, and armed with the required powers. The army of the United States had suddenly risen from 15,000 to 80,000 men, while the old medical staff, based on the peace establishment, stood in absolute need of re-organisation and proportionate increase. But the bureaucracy there, as elsewhere, frowned upon all suggestion as impertinent interference, and steadily resisted reform; and it was only after many days' delay that the required authority was accorded by the War Department, and the Sanitary Commission of the United States came into being.

The organisation of the United States Sanitary Commission, the mode in which it obtains its vast resources from the masses of the people, and distributes them over an area half as large as the continent of Europe, is well worthy investigation. The Commission, it may be said, has greatly exceeded the duties marked out by itself at the commencement of its career; it has gone far beyond merely advising the medical staff, for it now supplements it in an extraordinary manner, even to the extent of rendering medical assistance in the hospital and field, and in the front of battle itself.

The supplies furnished to the different armies of the republic by

the Commission, are of the most varied description, comprising everything required by the soldier outside of purely military requisites. The Government has not pecuniarily aided the Commission in this labour of love to the extent of a single dollar; every article, every pound of the two millions sterling contributed in specie, has been given by the citizens as a free-will offering. The Commission in fact has been the almoner of the people, the channel through which its offerings have been conveyed to the soldiers. No better idea of its work can be found than by giving a list of the supplies furnished by it to the army of the Potomac at the close of the battle of Gettysburgh, which took place in the month of July, 1863—

CLOTHING, &c.

Drawers, woollen	5,310 prs.	Oil-silk	300 yds.
" cotton	1,833 "	Tin-basins and cups	7,000
Shirts, woollen	7,158	Old linen & bandages	110 brls.
" cotton	3,266	Water tanks	7
Pillows	2,114	Water coolers	46
Pillow-cases	264	Bay rum and Eau de Cologne	225 bots.
Bed-sacks	1,630	Fans	3,500
Blankets	1,007	Chloride of lime	11 brls.
Sheets	274	Shoes and slippers	4,000 prs.
Wrappers	508	Crutches	1,200
Handkerchiefs	2,659	Lanthorns	180
Stockings, woollen	3,560 prs.	Candles	350 lbs.
" cotton	2,258 "	Canvas	300 yds.
Bed utensils	728	Mosquito-netting	648 pcs.
Towels and napkins	10,000	Paper	237 qrs.
Sponges	2,300	Pants, coats, hats	189 pcs.
Combs	1,500	Plaster	16 rolls.
Buckets	200		
Soap, Castile	250 lbs.		

FOOD, &c.

Poultry and mutton	11,000 lbs.	Ice	20,000 lbs.
Butter	6,430 "	Concentrated beef soup	3,800 "
Eggs	8,500 doz.	Concent milk	12,500 "
Garden vegetables	675 bush.	Prep. Farina	7,000 "
Berries	48 "	Dried fruit	3,500 "
Bread	12,900 lvs.	Jellies	2,000 jars.
Tamarinds	750 gals.	Preserved fish	3,600 lbs.
Lemons	116 box.	Pickles	400 gals.
Oranges	46 "	Tobacco	100 lbs.
Coffee	850 lbs.	Tobacco pipes	1,000
Chocolate	831 "	Indian meal	1,621 lbs.
Tea	426 "	Starch	1,074 "
White sugar	6,800 "	Codfish	3,848 "
Syrups	785 bots.	Canned fruit	582 cans.
Brandy	1,250 "	" oysters	72 "
Whiskey	1,168 "	Brandy peaches	303 jars.
Wine	1,148 "	Catsup	43 "
Ale	600 gals.	Vinegar	24 bots.
Biscuit, rusks, &c.	134 bar.	Jam, ginger	43 jars.
Preserved meats	500 lbs.		

All the perishable articles in this list (amounting to over 60 tons) were taken to the ground in refrigerating waggons. The estimated

value of the articles, exclusive of the cost of collection and transportation to the scene of action, was 75,000 dollars; kitchens, sleeping apartments, shelters, were established by the Commission's numerous agents; and crowds of wounded attended to, who could not be treated by the overtaxed surgeons of the army. There was every need of this, for no less than 14,860 wounded (of whom 1810 belonged to the opposing forces), crowded the hospitals, beside 5,452 of the enemy who were captured, and treated elsewhere. The Commission made and makes no difference whatever in its gifts to friend or foe, regarding the sufferers as men, not soldiers.

This is but an example of the Commission's labours on a single field. Multiply this result by the different armies operating over an extent of territory large as the battle-fields of the first Napoleon, involving expenses for transport (all paid by itself or furnished gratuitously by public companies), shipping and trains being in charge of its own agents, and waggons, horses, and mules owned by itself, and some idea may be formed of the magnitude of its operations. The outgoings are public, the incomings are not so well known; yet these involve a greater amount of labour and management than even the former. In all the cities, towns, and villages of the Free States, the citizens, and notably the women, have organised themselves into Branch Aid Societies, which furnish contributions in kind and money to a central committee in the various districts; these again communicate with the main branches in the great centres, such as New York, Philadelphia, Washington, Chicago, and Saint Louis, whence the supplies are distributed to the troops in the field. As a still more popular mode of engaging the sympathies of the public, Sanitary Commission Fairs have been held in many of the principal cities, and large sums raised thereby for the benefit of the soldiers. The State of California sent in one lump 500,000 dollars (£100,000 stg.) in gold to the treasurer. The fair at Chicago realised 50,000 dollars, that held in the city of Cincinnati 268,611 dollars, Brooklyn over 400,000 dollars, Philadelphia over 700,000 dollars, and the city of New York upwards of 1,000,000 dollars. Yet, vast as are these contributions, the calls for aid are still greater, and that notwithstanding the increasing liberality of the public as the operations of the Commission become more widely known.

It is well to remark that the Commission makes it a rule to pay all its employés, not merely as a matter of justice, but of sound policy. Every expense, from first to last, of carrying on these gigantic operations is, however, less than three per cent. of its income. Its doors are ever open to all comers, and any one may inspect its books who sees fit.

The medical staff of the United States army at present regards the Commission as its faithful handmaiden in the field, the hospital, and camp, and nothing but praise is now heard from those who formerly were its bitter opponents. The reason is obvious. The Sanitary Commission has solved a question which is still an enigma to other nations, for it has proved by three years of colossal labours that

military discipline and volunteer philanthropy can exist side by side and work together harmoniously for the exceeding benefit of the army.

Lest I be accused of national partiality for an organisation which will reflect glory upon the American people long after this war is over, I may be permitted to quote the words of an English philosopher, whose reputation stands as high in my country as in his own. Mr. John Stuart Mill thus writes in reference to the United States Sanitary Commission:—"It would be unpardonable did I omit to express my warmest feelings of admiration for the Sanitary Commission. History has afforded no other example—though it is to be hoped that it will hereafter afford many—of so great a work of usefulness extemporised by the spontaneous self-devotion and organising genius of a people, altogether independently of the Government."

This Volunteer Sanitary Commission has furnished to the different armies of the Republic, since the commencement of the war, four millions of pounds sterling of army necessaries, comforts, and luxuries. Its establishment, organisation, magnitude, and achievements, prove three things:—

First: The armies of a nation can be rendered incomparably more efficient by the volunteer aid and assistance of the people, without the slightest infringement of military discipline, or interference with the constituted medical authorities of armies.

Secondly: The American Civil War affords the brightest precedent of spontaneous and yet organised benevolence, and furnishes an example which other nations will do well to emulate.

Thirdly: The whole of the American people, men, women, and children alike, in thus rendering their armies efficient, prove conclusively that the war is not carried on, as many in Europe suppose, by the Government of a minority, but is waged by the great mass of the citizens themselves. In no other way can you explain the colossal achievements of this Volunteer Commission.

Note on the Aboriginal Races in Australia. By FLORENCE NIGHTINGALE.

AT the last meeting of the Association a paper of mine was read on the Sanitary Statistics of Colonial Schools and Hospitals. By the kindness of the Duke of Newcastle, copies of that paper were sent to all the colonies, and have called forth numerous communications of interest addressed to the Colonial Office. Mr. Cardwell has been good enough to place these papers at my disposal; and I now beg to lay before the Association extracts from two or three of the most important of those bearing on the fate of the aborigines of Australia.

The allusion made in my former paper to the Benedictine establishment of New Norcia has led to a long report from the Roman

Catholic Bishop Salvado (of Port Victoria) on the practical working of this institution, containing points of considerable interest, strongly confirmative of the views advanced as to the general principles on which the natives should be trained.

Bishop Salvado combats the idea that the mortality among Aborigines is produced by diseases, simply as such. The considerations he adduces all lead to one conclusion, viz., that so soon as native habits and customs begin to undergo change under European influences, the work of destruction has at the same time begun. "Few sick aborigines," he says, "are restored to health," whereas, under similar circumstances, "few Europeans would die."

The native appears to have little or no chance of recovery from the moment he sets foot within a house or hospital and comes under medical treatment. He longs to return to the bush; he escapes; "and yet that dying native, a few weeks afterwards, when every one that knew him believed him to be dead and buried, is as strong and healthy as ever, having travelled perhaps fifty or more miles on foot."

The native dislike to hospitals is confirmed by a communication from Dr. Hale, our Bishop of Perth, in which he says:—

"As regards hospitals, I am sorry to say that it is so impossible to keep the poor natives (*i. e.*, the uncivilised natives) under any kind of restraint when they are sick—they so completely set at defiance all rules and regulations—that anything like regular hospital treatment is quite out of the question in their case. They are ready enough to take medicines and such other things as may be thought needful for them, but they will not tolerate restraint or confinement. Their unmanageableness in illness arises from a deeper feeling than that of mere restlessness. A positive and very strong dislike to any locality where they have been for some time sick takes possession of their minds, they persuade themselves that there must necessarily be some connection between the locality and their illness, and they are constantly haunted by the idea that they would be better almost anywhere else than where they are."

It would seem from this extract that the natives have an instinctive dread of quiescence in one place. And this natural feeling is doubtless founded on some physiological law of their organisation.

A curious illustration of this instinct is mentioned by Bishop Salvado:

A native belonging to the institution became ill with spitting of blood: a sure mark of fatal disease, if the patient is treated in the usual way. The patient begged to be allowed to go into the bush; and after three days' hunting of horses, he returned sufficiently recovered to resume his occupations.

Guided by experience of this class, Bishop Salvado has been led to conduct the institution at New Norcia upon the following principles, which I give in his own words (he "apologises" for his "foreign English"):—

"Having fixed my residence here in the year 1857, and admitted successively a good number of native boys, I thought and did establish for them three daily hours of light work in the morning, and three daily hours of school in the afternoon. I left free the other hours of the day for them to play, as necessary gymnastic exercises.

"My object in fixing them physical work has been threefold, viz., to prevent sickness by the daily development of their exercised body and strength; to have them busy in doing some useful thing; and to introduce them by degrees into the habits of civilised and industrial life. Although I acknowledged the great advantages of mental work by fixing a certain time for their school, including religious instruction, I greatly feared the deathful consequences of indoor restraint.

"We ought to bear in mind that the aborigines are exotic or foreigners to our civilisation. They cannot stand at once, not even our food, much less our daily hard work, let it be mental or physical. For this reason I have always been rather indulgent in the exact keeping of their hours of school or work. In ploughing, shearing, and reaping seasons I dispense them of their school, and every one of them, according to their age and capabilities, is employed in the general work of the season. Indeed, the work of most of them is no other thing than a continual childish playwork, but it is by playing that they learn by degrees how to work.

"Of the two works, viz., physical and mental, I have given the preference to the former; for, according to my own ideas, a native that knows how to cultivate his field, I believe him to be much more advantageously initiated in the civilised life than another that knows how to read and write.

"I have seen aborigines, males and females, read and write quite correct as I thought, yet they were nothing better for it. Reading and writing are things utterly useless to them as far as their living is concerned, for not to starve they are obliged to return to the bush to live by hunting as their forefathers did. We look at them with European eyes, consider them as Europeans, and try to train them as such, but in doing so we delude ourselves. Their case is quite another, quite different from ours, and we ought to bring them to our case and high position not at once, but by the same way we came to it, by degrees.

"Physical work, as ploughing and so forth, will bring them the means of their living; mental work, as reading and writing, will bring them, what we have many a time seen, vices and debauchery. There are many things that in theory are really beautiful, yet cannot bear to be put in practice.

"There is an establishment, I will say, for the sake of argument, where one hundred or more aborigines have been well and highly educated, in fact every one of them is a good Christian and a good scholar. Their schooling time is over, and then what? Are they to remain all their life's time in that establishment? Are they to be supported always and in all their wants by that establishment? If this neither can be nor is intended by the rules of that establishment, can they support themselves, and perhaps their wives and children, by their learning when out of that establishment? Once out of that establishment where will they go? What will they do? All these questions have already been answered by the fact that all the time, trouble, and expenses in having brought them to that state of civilisation did them no good, all has been lost; for those aborigines, having no means of support, become the worst specimens of their race.

"I am well aware that when a Mr. Anybody sees the aborigines of such or such school read well their lessons, write clear their copy-books, and sing in good time certain favourite songs, he remains highly gratified, and everywhere he goes and to every one he speaks, he praises it to the skies. He and all will applaud it as a true blessing, never dreaming that the whole of it will have no good result at all, and all will disappear as the smoke before a strong current of wind. That gentleman thought he was seeing all this in a school of European children, but he was mistaken, as well as in all he thought would follow it.

"As a principle, I think that in civilising the aborigines of Australia the learning of the A B C, &c., ought to be a secondary thing; religious instruction and physical work, both at the same time, ought to take the first and leading place.

"I will make a hypothesis and suppose an establishment where the aborigines are daily and practically instructed in religious matters, and gradually trained in the doings of a well-directed farm. Their daily school is not long, neither is their daily work, yet the latter is encouraged by all means, and the aborigines are paid for it. In many cases, and perhaps in most of them, their work and the

benefit of it do not cover the expenses of their support; nevertheless, they are rewarded for it, and faithfully.

"The aborigines, seeing the real and positive advantage they are getting for heir work, will exert themselves the more, and thus by degrees they will become acquainted with the various branches and different works of a farm. They are rained in everything save in minding sheep, cattle, pigs, or goats, which thing does no good to them. Even tailoring, shoemaking, and similar trades are considered too sedentary and unwholesome for them; nevertheless, if any of them has an inclination to be a shoemaker or to learn any other trade, he is allowed to follow it. But, as a general rule, they are trained in the branches of agriculture.

"When any of them gets to be of a proper age and sufficiently instructed to cultivate by himself a field, a parcel of land is apportioned to him for that purpose. That land is to be cleared by himself, the other natives helping him, for which work the establishment pays them. It pays also somebody else for the rooting out of large trees and old stumps; for that work is considered too hard and even injurious to the health of the aborigines; pays as well for the fencing of the land, and thus the land is ready for the plough at the expenses of the establishment. At ploughing season that native being supplied by the same establishment with a team, plough, seed, harrow, and other necessaries, he ploughs that parcel of land or part of it.

"At the latter end of November our native is reaping the wheat of his field, and as cheerful as any man can be. The other natives are paid by the establishment for helping him; the native owner of the field is not paid for his reaping, nor has he been paid for his ploughing; he is not paid for any work he does for himself, but he is supported and supplied with everything he may be wanting at those times.

"The crop of the field is respected as his property, but it is also well understood that whatsoever money that crop will produce to him, that money shall be employed in buying tools and utensils of agriculture; and if those means are enough, a bullock or more are to be bought. Of the money he receives as wages for the works he does at the establishment he may dispose at his pleasure, although he is often advised to employ it usefully.

"If he is a single or unmarried man, the establishment provides him with a cottage at its own expenses, but he had been provided with it before that time if married.

"Should the single native find any of the girls at the same establishment willing to become his partner, they, supposing them both well instructed in their Christian religious duties, will be married. If there is no girl at the establishment or none of them is willing to marry him, then he may obtain any from out the establishment, and when instructed and baptised he may marry her.

"That native once married, the establishment supports him, as before, his wife and children (if they have any) for some time, perhaps for two or three years, and then by degrees the means of the establishment are shortened to him in due proportion to the increase of his own means.

"The children of that native, or natives, as the case may be, will be a great step further advanced in civilisation than their parents were at their age. They will have a better chance of having from their early days a good Christian and civil education, and the children of those children will be further advanced still.

"Thus by means of practical religious and physical work, education together with but little school in the beginning, and over all by the blessing of the Almighty, in the course of time a village of industrial small farmers and good Christians will be gradually formed.

"To this hypothesis it may be said that after all there is no more in it than a theory. Indeed it is a theory, but such that the fathers of our grandfathers by putting it into practice have fully demonstrated to have been the medium, and the high road by which they reached to their high state of civilisation, and even ourselves to the enjoyment of that we have the happiness to possess at present.

"After religion, I believe reading, writing, and what follows it, to be, to the already civilised people, one of the greatest, if not the greatest blessing of civilisation, but I do not think it to be so in the case of savages or uncivilised people, as the aborigines of Australia are. Nature itself teaches us that the first thing

a newly-born child looks after is the breast of its mother, and no man can make use of his mental or intellectual faculties if he has not the necessary physical powers to enable him to do it.

"It would be, perhaps, not out of place to add that even to the most of civilised people who do write, their pen is their plough, their ink their seed, and their paper their field. Very few indeed are those whose thought, and not whose ink is their seed; in fact, the more get their living by the plough, and the privileged (exceedingly) few by the thought.

"Anyhow that theory has regulated my operations here, and that hypothesis is nothing else but the same theory put here into practice, in order to attain our charitable and heartily wished-for-end, viz., the conversion and civilisation of the aborigines of this province.

"There are already better than eighteen years since I first came to this colony, but only seven since it has been my privilege to begin this benevolent work in my own way. For nearly the first four years (out of seven), the whole system worked well; at the latter end of the fourth year, the measles and its consequences were a great drawback to our efforts, nevertheless we continued exerting ourselves, and I have no reason to complain of the general result.

"A period of seven years is rather too short to expect in it great things from a work and system depending on the age of children. We had several young natives able already to work for themselves when the measles decimated them, but at present of 33 native boys and girls we have with us, four young men only are able to plough for themselves, and their joined crop yielded, this year, 200 bushels of wheat save 10.

"They themselves alone, ploughed the ground, threw the seed, harrowed the field, and at the proper season reaped materially the fruit of their hard labour.

"Self-interest is the oil that makes every wheel go. Take away self-interest, and not one will move; for nothing is done for nothing.

"Surely, if the aborigines are left to themselves, they cannot but follow their forefathers' traditions and customs, but if properly and timely trained, I, for one, do not see the impossibility of their being truly civilised. A great deal depends, there is no doubt, I think, on the system adopted, and on the way and manner of carrying that system out. The experience of many past years has taught us that the time, labour, and expense of civilising the aborigines of Australia by only teaching them how to read, to write, &c. &c., has been as yet an unfortunate failure. I have no doubt that neither want of zeal nor of means have been the cause of it, therefore it must lie in the system adopted. It seems to me that the physical work system as adopted in this Benedictine mission answers better, the practical result of it shows this, although in a short time, and on a small scale. I regret not being able to carry it out on a larger scale, but the simple reason is no other than our scanty means or private income. I thankfully acknowledge in this place, in justice and with gratitude to the colonial government, their helping us in our charitable work these three years with £100 sterling per annum.

"An enterprise of this magnitude cannot be properly carried out, even on our small scale, without incurring great expenses (and I know it too well), but, after all, the conversion and regeneration of man is not the work of man alone.

"We generally do select the best means as the medium for the better and surer attainment of our ends; but in the conversion of man, not the medium of that system, nor the other; not the scanty means nor the ample ones; not the management of that man nor of the other can alone succeed, for 'neque qui plantat est aliquid neque qui rigat; sed qui incrementum dat Deus,' 'neither he that planteth is anything, nor he that watereth; but God that giveth the increase.'

"Nevertheless, if we in such a charitable work comport ourselves as 'God's coadjutors,' and if as such we persevere in doing our best, every one of us 'shall receive his own reward, according to his labour.'"

I have introduced this somewhat lengthy abstract from Bishop Salvado's paper, because it explains the method of civilising adopted by him,—and which in his former communication, cited in my last paper, he stated had been successful in training the aborigines

without destroying them. The method employed pre-supposes the possession of considerable capabilities on the part of the native population. But the direction given to these is more towards physical improvement and introduction of better physical and moral habits, than towards mere head-knowledge.

In dealing with uncivilised races, it has hitherto been too often the case that the Roman Catholic Missionary has believed: "Sprinkle this child with holy water; and then, the sooner it dies the better:"—that the Protestant Missionary has believed: "Make this child capable of understanding the truths of religion, and then our work is done."

But the wiser Missionary of this day says: "What is the use of reading and writing to the natives,—it does not give him a living. Show him his duty to God. And teach him how to plough."

Otherwise, he does but fall into vice, worse than before.

Ceres comes before Minerva.

As for the Australians, in their present state, very few of the human race are lower in the scale of civilisation than these poor people: excepting indeed, those who trample upon and oppress them,—who introduce among them the vices of European (so-called) civilisation.

What must be the condition of a people of whom an English lady,* conducting a native school, can write, as she does to me:—

"There is not in nature, I think, a more filthy, loathsome, revolting creature than a native woman in her wild state. Every animal has something to recommend it; but a native woman is altogether unlovable."

And yet the daughters of these degraded women can give examples, like the following, cited in the same letter:—

"Bessy, the girl, has just commenced to play the harmonium in church, a superior instrument with two key boards (Alexandre's), and it is very gratifying to hear her, she plays so well, and with such coolness and composure, and not with any idea that she is doing what I suppose was never done before by an Australian native. She is very simple-minded, but quite equal in knowledge and intelligence to an English girl, who has not had greater advantages."

It is an advantage of an Association, such as this, that it enables difficult social problems to be subjected to discussion, and public opinion to be brought to bear on abuses which would not perhaps be otherwise reached. The voluminous papers, of which I have given a few extracts, are the first fruits of last year's discussion—by making them public, further good will ensue. This question of the fate of aboriginal populations is one closely concerning our national honour, and every day enhances its importance. I cannot better conclude, in the way of application, than with the following words from Bishop Hale's paper, already cited:—

"Upon the Australian races European civilisation (Christian in name, but far

* Mrs. Camfield, of Annesfield, King George's Sound, Western Australia.

rom Christian in reality) has come suddenly and with overwhelming force. It has found them utterly unable to hold their own against it, equally incapable of joining with and flowing onward with the advancing tide; and therefore these races have been, since the contact first took place, and still are, going down before and beneath its, to them, destructive progress.

"If their condition had been less degraded, or if the tone of our civilisation had been less overbearing, self-seeking, and oppressive, or even if the irruption of the one upon the other had been less sudden and less violent, the result might have been different. But it is vain to speculate upon what might have been; we know, too well unhappily, what has been taking place, steadily and surely, from the moment when Europeans first set foot upon the Australian continent until this present time. The native races sink down and perish at our presence."

Here we have the undoubted fact graphically described. The only question is, whether Bishop Salvado's plan of training the children of the disappearing race will save the race. His method is founded on sound physiological principles; and being so, is one of the most likely to succeed.

On the Disinfecting Property of Heat. *By* G. Shann, M.D. Cant., F.R.C.P.

The proposition which I am anxious to bring before the Association, with a view to insure its more general acceptance, and hence its more extensive practical application, is, that heat, at or near the temperature of boiling water, has the property of destroying infection, when properly employed. Heat raised to the point of combustion will of course destroy infection in the same way as it destroys all other animal and vegetable substances, by resolving them into their primary elements. It is manifest that such an application of heat, for the purpose of destroying infection, is only of limited use. If, however, it can be shown that heat of a temperature so low as not to injure the materials subjected to it, is effectual in destroying the property of infection which any substance may have acquired, by imbibition, from the sources of poison, it is obvious that we should establish a truth of wide practical application and utility.

In bringing forward this subject, I do not pretend to the slightest originality, or to have anything new to offer; but simply desire to show what has been done towards establishing the truth of the proposition in question; believing that the evidence on which it rests is comparatively little known, and that it is greatly in consequence of this that its general practical application has been so much neglected. I shall not enter into any discussion as to contagion, or as to what diseases are contagious; I shall assume that certain diseases do give rise to the secretion of a specific poison in the system capable, under certain conditions, of reproducing the disease in other persons; and that these poisons may not only be transmitted immediately, but also mediately, that is through absorption into other substances, such as silk, cotton, and woollen fabrics. The substances so charged with poison have been called fomites, and are the most common

agents in the diffusion of infectious complaints. It is with these fomites that we are now concerned; and it is in the disinfection of these that the power of heat in destroying this baneful property can alone be made practically available. It is principally in the disinfection of woollen materials, which do not admit of being washed without injury, as clothes, carpets, and other furniture, that this property of heat admits of the most useful application.

We are indebted to the late Dr. Henry of Manchester, one of the ablest and most accurate chemical philosophers of his day, for the discovery of this important property of heat at a comparatively low temperature. Dr. Henry's first experiments were instituted for mercantile purposes; being called upon to suggest some method of disinfecting cotton of the contagion of the plague, which at the same time should not damage the raw material for purposes of manufacture. This inquiry, entered upon originally for the benefit of commercial enterprise, was recurred to with renewed energy from motives of philanthropy on the first appearance of cholera in this country. The idea of trying experiments with heat was suggested by the known fact, that the plague appeared to lose its contagious property during the prevalence of high degrees of atmospheric temperature. Chemical considerations also led this acute philosopher to conjecture that the matter of infection, being a product of organic life of a complex nature, might have its nicely balanced affinities easily disturbed, and hence yield to the decomposing agency of a very moderate temperature. Dr. Henry commenced a series of experiments first with vaccine lymph, which he showed was capable of resisting a temperature below 120° Fahr., but was rendered inert by a temperature of 140° Fahr. The next series of experiments was with the infection of scarlet fever. Flannels imbued with the poison were apparently rendered harmless by exposure, for from two to four hours, to dry heat of from 200° to 206° Fahr. Dr. Henry, who was a singularly accurate observer, and most cautious and philosophic in drawing inferences, says of these experiments that they appeared to him sufficiently numerous to prove that, by exposure to a temperature not below 200° Fahr., during at least an hour, the contagious matter of scarlet fever is entirely dissipated or destroyed. There is reason from analogy, he remarks, to believe that other contagions would also yield to the decomposing action of the same agency; though a sufficient amount of direct experimental evidence is wanting. It is only due to this self-sacrificing philanthropist to record that he also tried similar experiments on his own person with the poison of typhus fever with negative results; but on these he does not place much stress, as it could not be shown that he was under any circumstances susceptible of the disease in question.

Strongly impressed with the belief, that the value of Dr. Henry's discovery was by no means sufficiently known or appreciated, a series of inquiries were instituted in some of our largest towns, amongst persons likely to be best informed, to ascertain if anything had been done, in the way of experiment, since Dr. Henry's time,

and also to learn to what extent the mode of disinfection by heat had been acted on. It was not that any question had been raised as to the truth of the proposition; but simply that the fact did not seem to be sufficiently known and acted on in practice, which led to this investigation. The inquiry naturally divided itself into two heads: first, as to what had been done in the way of direct scientific experiment; and secondly as to the extent to which the principle had been acted on, and the practical result.

1st. As to scientific experiments. The answer received from the late Dr. Alison of Edinburgh to this inquiry was: "I have often thought of applying Dr. Henry's experience to scarlet fever, but have not been able to make any observations on which I could place reliance. I have sent your letter," he proceeds, "to our Registrar-General, Dr. Stark, who is the only man in Edinburgh, I believe, likely to have information on the subject." Dr. Stark, in reply to Dr. Alison, says, "Besides those alluded to in your correspondent's letter—that is those of Dr. Henry—I do not know of any authentic experiment regarding the destruction of contagion by heat." Dr. Babington, President of the Epidemiological Society, writes, "No papers on the subject of the disinfecting property of heat, or on disinfection generally, have been presented to the Epidemiological Society." Dr. Chatto, librarian to the College of Surgeons, in answer to an inquiry (kindly made by Dr. Richardson) if he could refer him to any work in which disinfection by heat is treated of, writes—"I can refer you to no exact source of information." The reply from the General Board of Health was—"We have nothing on disinfectants except Mr. Blyth's paper. To which paper I shall make after allusion." Dr. Richardson himself replies: "I have tried to recal any recollection of works on the subject but cannot." Such testimony is pretty conclusive on the question of scientific experiments, and it is tolerably certain that nothing of importance has been accomplished in this direction since the original experiments of Dr. Henry; and that, as a question of experimental induction, it continues in *statu quo.*

We now turn to the inquiry as to the extent to which Dr. Henry's suggestion has been acted on. Thomas Stone, Esq., Surgeon to Christ's Hospital, says: "The method I have adopted and followed at Christ's Hospital for the purposes of disinfection is as follows. All personal woollen clothes, all woollen bed materials, as well as the bed and mattrass, are placed in an oven, and subjected to a degree of heat above that of boiling water, 230° Fahr., for an hour. At about 240° Fahr. we find the wooden trays upon which the materials are placed begin to char. I have every reason to believe," he says, "that these processes are completely effectual for the purposes of disinfection." R. D. J. Evans, Esq., Surgeon to Christ's Hospital's establishment at Hertford, writes: "Upon every occasion of the prevalence of infectious disease, such as scarlet fever, &c., the clothes of the children, bedding, and all articles that cannot be washed, are baked in an oven at a temperature of 156° Fahr. for

about three hours. I have," he adds, "every reason to believe that it is an efficacious means of preventing infection." Nathan Crisp, Esq., House Surgeon to the Bristol Royal Infirmary, writes: "We have a very simple apparatus here, erected some years ago. It is a mere large iron box, heated by gas. Into this, any bed linen, or any thing else, supposed to contain infectious matter, is put, and heated. The heat can be raised as high as 200° Fahr., or 220° Fahr., if required. No experiments have been made regarding its disinfecting power, on which to found any scientific data, but during the whole time it has been in use, that is, three or four years, we have never had any reason to doubt its efficacy. Previously to using it, all beds which had been occupied by patients suffering from fever, erysipelas, itch, &c., were invariably burnt. We now never find any necessity for so doing. Economy was the reason for erecting the apparatus, and it certainly saves a good deal of money. It is simply a double box, the lower part being heated by numerous gas jets; and thus allowing the heated air to come into contact with all parts of the inner box." John D. Scurrah, Esq., M.D., resident medical officer of the London Fever Hospital, replied to the inquiries made: "In the bath room there is a drying closet, with a flue from the fire grate, in which the clothes are exposed to a dry heat, which can be regulated at pleasure." He adds—"We have very little experience here in reference to the clothes of fever patients, as we do not take in the clothes." There are, however, some exceptions, which he goes on to explain. Dr. Alfred Swaine Taylor, in reference to the disinfecting apparatus in use at Guy's Hospital, says, in reply to the question—Does it prove perfect as a destroyer of infection, or has it ever been known to fail? "Never known to fail so far as vermin are concerned. It is considered the best disinfectant."

It appears that dry heat, conjoined with the fumes of sulphur, are very generally used in Union Workhouses for purposes of disinfection, and more especially for the destruction of vermin; but it is not easy to obtain very satisfactory information as to its actual powers of disinfection from this quarter; and no available facts could be procured from the officers of the Custom House, quarantine regulations not entering into the question of disinfection. Dr. Stephen H. Ward, Physician to the Dreadnought, writes: "I find that heat is employed at the Dreadnought for the purpose of disinfecting clothes, and destroying the vermin contained in them. The clothes are simply placed in a kind of oven and exposed to a high temperature for some time. The action of heat for this purpose is very satisfactory."

Miss Nightingale alludes to this subject incidentally. She remarks on the question of bedding, that nothing has hitherto been discovered suitable for this purpose in hospitals but hair mattresses. Hair she observes is indestructible. It does not readily retain miasm, and if it does, heat readily disinfects it.

The late Mr. Lindsey Blyth's admirable minute on disinfection

has already been spoken of, as the great or sole authority in such matters with the General Board of Health. The following are extracts from its pages :—" Clothing and bedding may be disinfected by exposing them to a dry heat of not less than 212° Fahr. From experiments on various materials employed in clothing, it appears that they may be exposed to a dry heat of 250° Fahr. without impairing their texture ; while a temperature of boiling water (212°) is quite sufficient for the destruction of infectious matter. Various forms of apparatus for the application of heat to the disinfection of clothes have been constructed, but the action is the same in all. A chamber is constructed either of masonry, or plates of metal, and the articles to be disinfected are so arranged on shelves, or otherwise, that when heat is applied their entire fabric is subjected to its influence.

The temperature of the chamber is then raised to a degree of not less than 212° Fahr., nor more than 250°, and this temperature should be maintained for at least an hour. It may be well to remember, that it is dry heat, which is alone proved to be effectual. Boiling water does not appear to possess this property. Dr. Stark, from whose communication I have already quoted, specially refers to this. He says, " in my own experience I have seen more than one notable instance, in which fever, scarlatina, and cholera, were communicated to the parties who washed the clothes of the deceased from the disease, after they had been immersed in boiling water one day and were not handled till the next day. To meet this danger a washwheel is employed at the London Fever Hospital, in which water, at a boiling temperature, is admitted through the axle of the wheel, which is turned by steam power. Mr. Simon informs us, on the authority of Dr. Buchanan, that this is found effectual, and that he does not remember to have seen any case of fever amongst the washerwomen ; and observes, that under the arrangement described, they are very little exposed to the effluvia from the clothes. High pressure steam would appear to possess something of the disinfecting property of dry heat, and appears, from the evidence of several of the communications, to be generally employed for the purification and disinfection of feathers.

The conclusions to be drawn from what has been said, seem to be the following—

I. That as regards scientific experiments, these have been sufficiently repeated to satisfy the most competent judgment, so far as regards the poison of scarlet fever, and fair analogy justifies the conclusion, that other kindred poisons would be similarly destructible by dry heat of a temperature of about 112° Fahr. The performance of experiments in which human lives are to be employed in the capacity of chemical tests, is not a proceeding to be carried out to a much greater extent than has been already done.

II. The conclusions arrived at by careful experiment appear to have been confirmed by the experience of those who have acted on the principle laid down, and employed dry heat as a disinfectant.

III. That considering the amount of evidence in favour of the employment of this agency, it has not received the attention to which its importance entitles it; and the sanitary welfare of the public demands that information on this head should be more widely diffused; and public provision made for bringing it into practical operation.

IV. That inasmuch as the difficulty of obtaining the use of a suitable apparatus for subjecting the fomites of infection to the action of heat, has, without doubt, had great influence in preventing the more general use of this means of disinfection, it is desirable that public provision should be made for the benefit of the poor, by the establishment of some either fixed or portable apparatus more or less extensively, to be employed by all requiring such assistance in disinfecting articles of clothing or furniture, which cannot be subjected to the ordinary process of washing.

It may be desirable that it should be known, that the apparatus on board the Caledonia Hospital Ship, which is favourably spoken of in Mr. Blyth's minute on disinfectants, was manufactured at Messrs. Jeakes's, Great Russell Street.

HEALTH.

President.

SIR CHARLES HASTINGS, M.D., D.C.L.

Vice-Presidents.

W. D. HUSBAND, ESQ., F.R.C.S. | EDWIN LANKESTER, ESQ., M.D., F.R.S.
GEORGE SHANN, ESQ., M.D.

Secretaries.

W. O. MARKHAM, ESQ., M.D.
ROBERT RAWLINSON, ESQ., C.E.

Local Secretaries.

J. B. ATKINSON, ESQ.
J. H. GIBSON, ESQ., M.D.
F. NEEDHAM, ESQ., M.D.

This Department considers the various questions relating to the Public Health; it will collect statistical evidence of the relative healthiness of different localities, of different industrial occupations, and generally of the influence of external circumstances in the production of health or disease; it will discuss improvements in house-construction (more especially as to the dwellings of the labouring classes), in drainage, warming, ventilation; public baths and wash-houses; adulteration of food, and its effects; recreation and amusement; the functions of Government in relation to public health; the legislative and administrative machinery expedient for its preservation; sanitary police, quarantine, &c.; poverty in relation to disease; and the effect of unhealthiness on the property of places and nations.

SUMMARY OF PROCEEDINGS.

The following special questions were discussed in the Department :—

"What are the best means for disposing of the Sewage of Towns?"

"What is the Influence on Health of the Overcrowding of Dwelling Houses and Workshops? and by what means could such Overcrowding be prevented?"

"What are the Causes, and what are the Means for the Prevention of Excessive Infant Mortality?"

In addition to the papers printed in the foregoing pages, the following were read in the Department :—

"The Utilisation of Sewage." By Henry Bird, M.D.

"The Utilisation of Sewage." By Thomas Walker.

"The Utilisation of Sewage." By Edward Bishop, M.D.

"On the Contamination of the Water of Leith by the Sewage of Edinburgh and Leith." By Stevenson Macadam, Ph.D.

"Excessive Infant Mortality: Its Causes and Their Removal." By W. S. French, M.D.

"Overcrowding in Leeds." By John Holmes.

"The Extension of the Factory Laws." By C. P. Measor.

"By what means may the employment of Children in the Sweeping of Chimneys be prevented?" By John Kitching, M.D.

"Town and Village Kitchens for Sick-room Cookery for the Poor." By T. H. Barker, M.D.

"Smoky Chimneys." By R. Clough.

SEWAGE.

What are the Best Means for Disposing of the Sewage of Towns?

In addition to the paper of Mr. Robert Rawlinson, printed at p. 486.

Dr. Henry Bird read a paper "On the Utilisation of Sewage," in which he laid down the following series of propositions :—

1. Sewage flowing slowly through pools or tanks, or confined in vessels, separates into three portions: the floating, the precipitated, and the intermediate fluid. 2. The process of precipitation may be be promoted by the use of cheap, simple, and easily procurable deodorants. 3. Sewage rapidly undergoes putrefaction which injures its fertilising qualities, and causes deleterious offensive and dangerous emanations. 4. This process of decomposition can be arrested, and its injurious results prevented, by removing the more solid matters of sewage, and drying them at a low temperature,

with antiseptic chemicals. 5. In the decomposition of sewage, ammonia and other volatile compounds are evolved, and are soon dissipated and lost. Thus, if old sewage be dried by simple exposure, it will be found to possess but a low fertilising power, whilst if dried with sulphuric acid, the ammonia becomes fixed, decomposition is arrested, and the fertilising principles are retained. 6. The ashes, sweepings, and other refuse of large towns may be rendered available in the fertilisation of poor land, by percolating fluid sewage through them for two or three weeks, and drying the mass with sulphuric acid. This compost may, with little trouble or expense, be made worth at least 10*s*. per ton. 7. All manures, prepared from sewage, should be kept dry and protected from sun, heat, and rain. 8. Fluid sewage, however treated, contains in solution and suspension fertilising salts and organic matters. 9. Fluid sewage can in every case be used for the irrigation of land. It should never be allowed to flow into the sea, rivers, or brooks. 10. The more solid portions of sewage may be easily separated from the fluid, by allowing the whole to flow slowly through tanks or culverts, fitted with sluices or dams; the current being directed through the middle level without disturbing either the surface or bottom of the tank. This separation would be accelerated by the use of sulphated clay. 11. Clay, especially the more ferruginous clay, and sulphuric acid, mixed in the proportion of one part of the latter with nine parts of the former in a dry state, forms a cheap and efficient precipitant for sewage. It acts at the same time as a deodorant. It does not in the slightest degree injure the manure, but in fact adds materially to its fertilising quality. 12. In the tanks already mentioned, the floating matter should be daily skimmed off the surface of the fluid sewage, then placed in a reservoir, and treated with dilute sulphuric acid. The precipitated matter should be also removed as often as the divisions or spaces between the sluices and bottom of the tank become filled, and treated in the same manner with sulphuric acid. These matters, so prepared, may be dried quickly at a temperature not exceeding 150° Fahr. by spreading the mass upon heated beds of fine ashes or layers of clay in covered sheds. When sufficiently dried, the compost should be crushed to render it fit for drilling or spreading on land. 13. When the more solid portions of the sewage are thus intercepted by sluices or traps, and removed (as above directed) offensive emanations are materially lessened, if not prevented, and the fluid portion passes tolerably clear, through and out of the tanks. By this method, the fœtor caused by the passage of fresh fluid sewage through masses of semi-solid putrefying matter, is altogether prevented.

Mr. Thomas Walker, in his paper on the same subject, maintained that the most valuable manurial matters of sewage are held in solution by the water, and that therefore it is most useful in a fluid state. He recommended the following method of utilisation :—

Pass the sewage direct from the sewers, into a trough of a certain

form, and of a size proportionate to the flow and quality of the sewage; in this trough only the stones, grit, and other heavy matters subside; and from this trough the sewage passes, with its more fibrous suspended matters (through a grating that intercepts rags, paper, &c.), into a large settling pit, capable of containing several hours' flow, and of a convenient construction for facilitating the settling, and subsequent emptying, of the mud. (It is better to have two of these settling pits, so that the sewage may be depositing its mud in the one, while the other is being emptied.) In this latter pit the remaining non-decomposed matters are deposited by subsidence, the water passing off clear at its far end, to pumping engines. The pumping engines, working night and day, will pump the clarified sewage through an underground cast-iron rising main, to a large reservoir, or any suitable high elevation, from which rising main, and the reservoir, any land below can be irrigated, by means of branch carriers, which will also be laid below the surface. The distance from the pumps to the reservoir may be several miles. To every 220 yards of the rising main, there will be branches right and left, to which will be attached long carriers, with 6-inch hydrants or taps at every 220 yards. There may be also large service pipes, starting from the reservoir, in different directions, to be taken through other land where the sewage may be required, in the same manner as described in reference to the rising main and its carriers. As 220 yards square is equal to ten acres, there will therefore be a 6-inch hydrant to every ten acres, from which the farmers will (by trenches or otherwise) take their supplies.

The farmers situated in any part of the district over which this network of carriers extends, will thus be able to have the sewage at any time and anywhere they may require it; the quantity used by each consumer can be ascertained by a water-meter attached to each hydrant, or so much an hour may be charged for each hour that each hydrant is open. Mr. Walker added an estimate of the cost of utilising the sewage of Birmingham on this plan, which promised considerable profit on the undertaking, while disposing of 22,000,000 tons of sewage at ½*d.* per ton, distributing it over 22,000 acres.

Dr. Bishop also read a paper on the question, in which he sought to establish the following points:—1. It is possible to make a very efficient disinfecting agent cheaply, so as not to preclude its use on a very large scale:—2. It is possible to collect and remove human excreta, and so to treat them as to make them portable not only without their becoming a nuisance but with benefit to the public health as compared with the system of ash-pits, which this plan is intended to supersede:—3. It is possible to appropriate the manurial matters in human excreta with positive benefit to the agriculturist, and to obtain a fertiliser of such value as to leave a fair profit on the capital required after paying the expenses attendant upon carrying out the system.

DISCUSSION.

Lord ROBERT MONTAGU: It is no longer asked whether we shall utilise the sewage. That is an antiquated query which no one will now put. The Council of this Association have shown their wisdom and mastery of the subject by assuming an affirmative answer to that query of bygone days, and proposing for discussion the question, "What are the Best Means of Disposing of the Sewage?" The fact is that we are without alternative, and must utilise the sewage upon the land, and the only doubt is as to the mode of causing that to be done. The blue book which I hold in my hand contains ample evidence as to the deplorable state of the rivers whence the water supply of towns is drawn. It is in some instances so bad that "birds are seen to walk over the scum which forms upon the surface of the water." The rivers also become choked with weeds; the scouring of the stream is stopped, and the beds are silted up. In some places, the beds of rivers have been raised fourteen or fifteen feet within the last twenty years; and the land becomes sodden and frequently flooded. The fish also are destroyed; and sickness is caused by drinking the water. The loss of fish is very serious. 300 families were supported at the mouth of the river Dee alone by fishing the salmon which it contained; while the salmon of the Thames or Mersey would be worth many thousands sterling a year, and would support many hundreds of families; besides which a great source of food for the people would thus be augmented. We must get rid of the sewage first; and then, in a few years, we shall fill these rivers with salmon. It ought also to be taken into account that it is illegal—it is contrary to the common law of the country—to turn the sewage into the rivers. We had evidence from Mr. Tom Taylor in the Parliamentary Committee as to the intention of the Commissioners to utilise the sewage. As the secretary of the Board of Health, Mr. Taylor stated that it had always been the desire and the intention of the Commissioners of Health to utilise the sewage on the land. I think I have now stated enough to make you concur with the House of Commons in this conclusion—that we must no longer turn our sewage into the rivers. That must be put a stop to. But then we are met with the question, "What shall we do with it?" By means of cesspools we used to put it into the air; but the air revolted against this, and killed off thousands of persons. Then there was tried another of the elements; but the water revolted, and killed off the ratepayers of the town, the cattle in the fields, and the salmon in the rivers. Now, we must try another element, the earth. That will be thankful for the boon. The evidence taken before the Committee amply proves that all measures for deodorisation or precipitation have utterly failed, and that filtration is totally ineffective. Therefore, as Mr. Rawlinson, Mr. Tom Taylor, and others, have shown, the sewage must be utilised in liquid form upon the land, whether it will "pay" to do so or not. I am prepared to show, however, that it would be highly remunerative, if prudently and moderately applied. Let me refer for a moment to the example of Croydon. The people of that town were driven by fever to construct sewers. These sewers emptied themselves into the river Wandle. Then the town had to suffer seven injunctions and expensive lawsuits because they had fouled the river and killed the fish. £10,000 sterling having been wasted in these lawsuits, they spent other £24,000 in trying various deodorising processes. At last they were forced by the judgment of Vice-Chancellor Wood to apply the sewage to land as the only proper purifier. Instantly on this becoming known the value of land rose, and none could be obtained under £4 an acre. Sewage was applied, and the land was let, with all the sewage, under a contract for a term of years, at a profit of £1 an acre. By this means the town has now £300 a year clear gain towards paying their rates, and they are deploring their folly in binding themselves by a contract; for they could now with ease make a gain of £15 an acre, according to the evidence of the Town Clerk of Croydon. All the farmers in the vicinity are clamorous for the sewage, but cannot obtain it. The fact that the roots of plants seek the elements of sewage as their proper food, and that the soil is the only thing which can remove every taint of sewage from water may be regarded as a finger-post

of nature that points out to us the way in which we should go. Providence seems to say, "There is the place where you shall put all those fertilising matters which now you waste." It is necessary in considering this subject, that we should take into account the present deficiency and high prices of artificial manures, and the certainty of the failure, within a few years, of the sources whence they are supplied. The stock of artificial manures is at present very deficient; it is said to be not half as much as the land requires. And if the tillers of the soil cannot get a sufficient supply of artificial manures at a reasonable charge, why do they not have recourse to the utilisation of town sewage, which contains all the necessary fertilising ingredients? I will mention what occurred in my own case: I had a garden of about five acres in extent, and I had not enough manure for the ground. Well, I took advantage of the cess-pools in connection with the house; I utilised the sewage by applying it to the garden ground; and I found that amply sufficient for the purpose—in proof of which, I was able to rear in that garden some of the finest fruit—including splendid strawberries—that you could find in the whole country. I think I have proved that town sewage can be utilised and that it will "pay." The fear of artificial manure dealers and companies, that the experiment of utilising town sewage may be extensively tried—their attempts to spread false reports on that subject, and their desire to prevent town sewage being utilised—are all arguments in favour of the value of that sewage, as showing how their trade would necessarily suffer were the sewage to be generally adopted. We had the evidence of the well-known engineer who brought the water supply from Loch Katrine to Glasgow—to the effect that the thing of itself is quite feasible, and would be attended with profit to those who adopt it. We had also the evidence of two Cornish engineers as to the price of pumping and the other operations necessary before the sewage can be applied to the land—all of which, it seems, can be done at wonderfully little expense. Another fact mentioned was that carriage by suspension in water is the cheapest mode of carriage. In former days, as Mr. Tom Taylor and others told us, all the matter from the London cesspools that was utilised was taken in casks twenty or twenty-five miles down the country for that purpose; and if in former days that plan was found to pay, it will surely now be attended with equal benefit. A large area might be benefited by the sewage of London, at a cost of £4,500,000, in such a way that the ratepayers might receive nearly £1,000,000 a year towards a reduction of rates. It would be sold to the farmers at 2*d.* a ton, whereby the fertility of the ground would be increased to such a degree that we should have no more to send out gold to buy 16,000,000 quarters of corn and flour, and £4,000,000 to procure guano, and £1,500,000 to obtain super-phosphate. But all that money would be retained in the country as capital to employ labour. The ratepayer would be relieved from the burden of rates; the farmer would receive vastly increased returns: the landowners would find that their land was more than quadrupled in value, by merely doing as nature has pointed out—utilising the sewage on the land, instead of letting it be lost by flowing out to the sea.

Dr. Lankester: I think we are greatly indebted to Mr. Rawlinson for the very masterly manner in which he has discussed this important question; and shown us the evils to which we are exposed from the present treatment of town sewage. I think there can be no doubt as to the fact that in those districts where dirt and filth are allowed to accumulate you will have the most disease and the most death. There can be no doubt that the various forms of contagious disease will be found to be most fatal in the worst drained and worst ventilated streets of any town. I make this remark, however, with this limitation, that it must not be supposed that an accumulation of dirt will engender the germs of contagious disease. It was a favourite notion of some of our early sanitarians—whose names ought to be regarded with every respect—that decomposing animal and vegetable matter would produce the germs of scarlet fever, which, when once generated, would spread. I don't think that that has been proved or demonstrated as yet in a satisfactory manner. There is, as you all know, a kind of fever called typhoid. We have been told that this fever is caused by the decomposition of animal and vegetable matter. I don't think that even this has been sufficiently demonstrated. Dr. Budd, of Bristol, tells us he believes that

the germs of the disease lie in a special poison, which adheres to the decomposing animal matter, and is thus propagated and conveyed from one human being to another, through dirt as the medium. Whether the one or the other of these theories be true, it is absolutely necessary that we get rid of those elements that spread and perpetuate disease. In all our arrangements in towns we should institute such conditions as to cover both these issues—getting rid of the dirt and filth and also getting rid of the poisons. There is one means of getting rid of both; because by getting rid of the solids and of the dirty water, you will get rid of the poisons by which it is said that disease is spread and death multiplied. Then, having arrived at the conclusion that we ought to get rid of the filth, there comes the great question—How can this be accomplished? There is no doubt that Mr. Chadwick in insisting on the use of water in getting rid of the filth, did a great service. But there is, again, a difficulty in the way of getting rid of it by water, in consequence of our having no proper outlet to which we can convey it with the water at our disposal. We have an instance of this in the case of London. There is no doubt that when filth is accumulating in a house the best thing to do is to get rid of it as quickly as possible. Well, the people threw it into the river, and got rid of it by that means; they thought it was better to poison the river than to poison their houses. And what was the state of the Thames, from the accumulation of filth? A few years ago, before we initiated the present system of drainage, the river Thames smelt so abominably that people could scarcely live on its banks; and yet the belief of the people who resided on these banks was distinctly to the effect that disease had not increased! There was the Thames with its open sewers, the poison of which was stealing gradually into our houses—was killing the fish in the water, the vegetation upon its banks, and spreading its effects on the whole neighbourhood around. What the accumulation of filth can do primarily in the cesspools of our dwelling houses, it can do on a more extended scale on the banks of a river. The fact is that the water was not capable of oxydising the sewage; and for this reason it produced death along the banks of the river. This can be easily understood. You may take a quantity of sewage and put it into fresh water and you will find that the sewage does not give the slightest taint to it; but put in a little more sewage and you will find it does produce a taint in the water. The water naturally contains oxygen gas, and as long as that is sufficient to oxydise the sewage thrown into the river it has no prejudicial effect. But, if you send in an excessive quantity of sewage, sufficient to absorb all the oxygen, that moment your river begins to smell. This is the case with the Thames. The quantity of organic matter thrown into the river is too great for the supply of water, and it is therefore not oxydised; that is the cause of the nuisance, and of the injury to health. At Lancaster, ever since the sewage was thrown into the river, there have been good results; there has been a diminution of disease in the town and an increase of salmon in the river. But there you have a magnificent stream in proportion to which the sewage discharged into the river is as nothing. This shows that, as I have already said, as long as there is sufficient oxygen in the water to oxydise the sewage, there will be no injurious effects. The salmon, in that case, feed upon the sewage, and increase in the river. But before that result follows, the conditions I have mentioned must be fulfilled. But the case of the Thames was quite different. The sewage there mastered the oxygen of the water. Everybody knew that; the smell arising from the river at last penetrated the Houses of the Legislature, and it was after this that their attention was called to the necessity of a proper system of drainage. Then comes the great question as to how we can not only get rid of the sewage, but in doing so, how we can make a profit by it? Two great plans have been proposed, and they have been brought before you this morning. There is first the plan of taking this sewage, and precipitating it so as to obtain a portable solid manure. There have been practical experiments made, by which we have had the solid part of the sewage deposited; and this has been shown to be worth little or nothing. The farmers won't take it. At Birmingham the farmers will not take it even at 1*s.* per ton. I do not think that we shall ever be able to deposit the solid matter of sewage so that it can be useful or profitable as manure;

for we must remember, that if it is separated by precipitation it loses those gaseous matters, carbonic acid and ammonia, which form the food of the plant, and which render it valuable on being applied to the soil as a fertiliser. The next plan we have to consider, is that of employing the sewage as it comes from many of our towns directly to the soil; provided it contains a sufficient quantity of the fertilising constituents, there can be no doubt of the benefit. We have, in the Craigentinny Meadows near Edinburgh, an instance of produce derived, as the result of throwing sewage over a given district; and there are other cases where it has been shown that the distribution, in this manner, of sewage to the land, is very beneficial. I think, therefore, that we ought to give our countenance to every experiment that is made in the way of utilising the sewage of towns. If we neglect to remove the sewage matter, we are certain to engender disease and death, but by utilising it, we increase the produce of the earth, on which man subsists. Man is of the dust of the ground; it was from the dust we came, and to it we must return. Our life is the result of the constituents of the soil, which are first given to plants before they come to us. Let us then, I say, return these used elements to the soil, that they may be returned again to us as for our daily life.

Mr. Akroyd, Halifax: I quite concur in what has been said as to the extent of the evils that arise from the fouling of rivers by town sewage. One remedy suggested in the committee of inquiry was the diversion of part of the river into the soil at a certain point and restoring it at another point. I appeal to any gentleman who resides in the West Riding, if there is not a danger of the small streams in the neighbourhood of manufacturing towns becoming a great nuisance and source of disease if something of this kind is not adopted. With regard to the pollution of the Thames the remedy proposed is one in which I most entirely concur; it is by diverting a great body of the Thames stream a few miles below London, and after carrying this volume of water for a certain distance to restore it to the stream. The objection is that it would be the means of depriving the Thames to a great extent of its body of water, and thus take away the means of navigation at that part of the river. The town of Bradford suffers more than any other that I know from the accumulation of sewage. The smell arising from the stream there is so offensive that the houses along its banks which were originally valuable and pretty villas have now become very unpleasant places of residence. I have felt the smell myself very distinctly at a quarter of a mile's distance, on going to Bradford. At Halifax and other towns through which the stream flows, there are also large filthy sewers which make it a nuisance to the neighbourhood. At Leicester another mode of treating the sewage is adopted; and, it appears, with the best results. It has been so successful that—according to the evidence laid before the committee—while formerly the fish could not live in the water at Leicester, they have, since the adoption of this new apparatus for utilising the sewage, come back again to the river, and the trout may be seen there at any time in considerable numbers. It strikes me that the only true remedy we can adopt is to endeavour to restore the water in a pure state to the stream with which there is a connection, and that at the earliest possible point. At the mouth of all these sewers, there should be laid down a purifying apparatus, so that the volume of water would be thereby restored to the river in its pristine purity. It is my belief that we have sufficient evidence to show that this can be quite well accomplished. I would have attached to every one of these town sewers a purifying apparatus. In some large towns we have compensating reservoirs which we are obliged by Act of Parliament to erect in order to keep up the supply of water. Taking a view of the whole subject, then, I would recommend, first, the compensating reservoirs; secondly, the chemical mode of treating the sewage by precipitation; and, thirdly, the mechanical mode by filtration.

Mr. Walker, Birmingham: It appears to me that when water is raised, by means of pumping, to such a height that it can be distributed over the whole districts of a town, it is equally possible, by raising the sewage to a height of four or five hundred feet, to apply it to a district of land. It is well known to most people acquainted with engineering that about 100 tons can be raised a height of 400 feet for a shilling, which is at the rate of less than a farthing per

ton, and when we think of the cheapness of these cast-iron pipes, and of these simple engines, I do not see why this plan should not succeed.

Mr. RAWLINSON: When I speak on this question of the utilisation of sewage, I am not speaking theoretically; I am not speaking on things that might or might not be; but I am telling you what I have found out in the course of a careful investigation of the subject—I am telling you the results of extensive experiments—I am telling you my thorough conviction from what I have seen with my own eyes, that every attempt that has yet been made to solidify sewage has been a failure. I will go further—I will pledge my reputation that there is no man living now, or that ever will live, that will ever get anything out of sewage by chemical precipitation. All the facts have been gone over in detail before me as a member of the Royal Commission on the subject; and that is my decided conclusion. The application of the sewage to the land, and that in a liquid form, is what I advocate. But the subject must be taken up in a really practical way. Lord Robert Montagu must have very little experience of companies in this country if he does not know how easy it is to get up companies for almost any purpose and to ride away on the weight of the influential names in their programme. I must therefore lift up my voice and say to the public that if they attempt to deal with the utilisation of the sewage of London by means of public companies, my opinion, after fully considering the details, is decidedly that such a speculation would not succeed, but would land its shareholders in bankruptcy. In my opinion, the true and proper way to utilise the sewage of London is to do it gradually and judiciously; let twenty or thirty miles of land be taken in for treatment in the first instance. Then, having decided on the scale on which operations are to be commenced, there should be caution exercised in the carrying of them out. The elevation of the sewage to the point desired should be done by degrees—not to the height of two or three hundred feet by one fell swoop, but by raising it first ten feet and then ten feet as that is necessary. Beter to take first the lands on either side that lie within the influence of gravitation, and to deal with these lands by gravitation, than to run the risk of making a great commercial blunder. Now, I have said that in going to work in this way the use of pipes is neither necessary nor proper. In the meadows near Edinburgh the open carriers are found to be foul abominations. But these are wide, rude, rough, open carriers which have never been formed into shape and never put right in time. And though these carriers create these foul smells is it to be inferred that it will be necessary for us to resort to pipes in every case? Certainly not. I have said that the utilisation of sewage by the chemical mode of precipitation will never be successful; because any one who adopts that method will soon find his scheme fail on account of the expense with which it is attended. I have described certain open canal-like tanks which have been constructed for sewage purposes, and which I prefer to the brick sewers. I will tell you the reason. When you fill these brick tanks with sewage, it will be absorbed in the pores of the bricks. You will thus have an accumulation of fœtid matter, and, as the little leaven leavens the whole lump—the sewage being covered in and prevented from oxidising—fermentation will set in, and this will do a very great deal of mischief. If you are to have cesspools you ought to have them with no tops on. If you have a cesspool near you, never cover it at all; rather lay a scattering of earth or charcoal on the top. Don't have anything to do with those hermetically closed cesspools, for they are simply abominations. I will never advocate the throwing of the sewage of towns into the rivers. But in the investigation which took place on this subject, a good authority was asked the question—"Have you ever had any complaints of fish being poisoned by the sewage being poured into the river?" and he replied "No." I do not mean to use this as an argument, but I mean to say that in many rivers the sewage is poured in without any bad effects. It is not the fresh running sewage, but the sewage that has accumulated, it may be for years before, that does the mischief. That sewage, being putrid when discharged into the river, exhausts the oxygen in the water, and thus the evil effects arise. If the sewage is fresh, on the other hand, the river can receive it with advantage, and it will feed the fish. [The PRESIDENT: Am I right in understanding that you disbelieve in sewage killing fish in rivers and burns?]

Yes. And not only so, but I am aware of my own knowledge that it does nothing of the kind, but the very contrary. At Newcastle, since the sewers were finished, there have been more salmon and trout in the river than there had ever been before, in the memory of the oldest person in the district. [The PRESIDENT: At Malvern, within the last few years, there have been drainage works established, and I know from Sir Edward Lechmere that the sewage coming down from these works has destroyed the fish in the river. An action has been raised by Sir Edward on that ground, as I am informed.] As I said before, there is a great difference between sewage that is fresh and sewage that is putrid.

Dr. LANKESTER: The bad effects are caused not so much by the quantity as by the quality of the sewage. A small quantity of putrid sewage will exhaust the oxygen; but a large quantity of fresh sewage will not exhaust the oxygen and therefore will not produce such bad effects.

Mr. HUSBAND: In this city we have two strong proofs that sewage discharged into a river in a fresh state does not injuriously affect fish. Near the two principal points where the sewage of the city runs into the river we get the finest and largest fish that are to be found near York.

The PRESIDENT then moved the following resolution, which was passed unanimously: "That this meeting regards the sewage of towns as of undoubted value as a fertiliser of the soil; and, while recognising the importance of getting rid of it, as a source of disease, from houses, is decidedly of opinion that the true destination of sewage is the soil, and therefore strongly recommends a continuance of all efforts to divert it from rivers and distribute it over the lands of the country."

Dr. STEVENSON MACADAM, Ph.D., F.R.S.E., F.C.S., Lecturer on Chemistry, Surgeons' Hall, Edinburgh, read a paper, "On the Contamination of the Water of Leith by the Sewage of Edinburgh and Leith."* The Water of Leith, which is at present contaminated with the sewage matter discharged from a large part of Edinburgh and from Leith, is comparatively a small stream; and whilst during the winter months, and after rain, there is a current of water passing down its bed, yet in summer and dry weather the whole of the natural water of the stream is diverted into mill lades, which traverse the city of Edinburgh and its suburbs, and there is little or no natural water in the bed of the river as it passes these districts. Into this small stream of water there is discharged the sewage of 70,000 of the inhabitants of Edinburgh, and upwards of 30,000 of the people of Leith; and the result has been that the bed of the Water of Leith has become a foul polluted stream, conveying fœcal matter of the most disgusting and abominable kind, and evoking fœtid emanations into the surrounding atmosphere. In many parts of its course through Edinburgh, the bed of the stream is rocky and uneven, and in the pools thus formed, much of the solid matter conveyed by the sewage stagnates, and passing into a state of putrescence evolves abundantly offensive gases. Larger accumulations of fœcal matter are arrested by the mill dams, and, indeed, the numberless pools in the bed of the Water of Leith and the various

* The paper of which the above is an abstract is printed in full in the Report of the Sewage Commission now being prepared for Parliament.

dams form numerous cesspools, open to the air, and which are practically hotbeds of decomposing filth. The special investigations relating to the contamination of the water of Leith included—1, the liquids with mechanically suspended organic matters, as conveyed by the sewers and by the Water of Leith; 2, the sedimentary matters which lodge in the open sewers and the bed of the stream; 3, the gases evolved from these decomposing sedimentary matters; 4, the gases dissolved in the various liquids collected from the sewers and the Water of Leith; and 5, the state of the atmosphere immediately above the districts through which the open sewers and the stream passed. The numerous chemical analyses proved the foul condition of the matters carried by the sewers into the Water of Leith, and the offensive state of the stream itself; and it was apparent that the sewage had converted the Water of Leith into a great public nuisance, which it was desirable to get rid of. At no time after the passage of the sewage of Edinburgh into the stream is the water free from passing into a state of putrescence. Even when filtered on the spot at many different stations, the liquid which was obtained, though somewhat clear and transparent, yet contained more or less organic matter, had a foul taste and a fœtid odour, destroyed the colour of much permanganate of potash, and when allowed to stand some days, passed into putrefactive fermentation, and evolved stinking gases. The sedimentary matters found in the Water of Leith from where the sewage begins to enter, downwards to the harbour of Leith, and in all the mill lades connected therewith, are undoubtedly due to the discharge of the sewage of Edinburgh and Leith into the stream and the lades; and these deposits are not only foul and unsightly in themselves, but are far more noxious as hotbeds for the disengagement of unwholesome gases. The rapidity with which the gases escape from the organic mud is only that of the dam heads, and in the harbour the water floating above the putrefying stuff is perforated every moment with bubbles of gas; and so abundant are these in many places, that the water presents the appearance of a shower of rain falling thereon. In considering the whole subject of this paper, and contrasting the results of the investigations made by me relative to the Water of Leith with those made in London on the Thames, and knowing the great benefits derivable from improved drainage in the lessening of the rate of sickness and of death in all localities where effective and judicious sanitary measures have been carried out, I beg to submit the following conclusions: I. The Water of Leith, above the influence of the sewage of Edinburgh, is a small stream of water of a peaty or turfy nature, which has its original amount of organic and saline matter increased by discharges from paper mills and other public works, but arrives at Edinburgh in a condition not liable to putrefaction, and containing a good proportion of free oxygen gas. II. That the Water of Leith, immediately before admixture with the sewage of Edinburgh, is comparatively free from foul deposits and from unsightly organic growths, and does not evolve unwhole-

some gases into the surrounding atmosphere, and thus contaminate the air of the vicinity. III. That the sewers and drains of Edinburgh convey large quantities of offensive liquids with decomposing organic matter in solution and mechanical suspension, and discharge such into the Water of Leith at many points. IV. The organic matters so conveyed into the Water of Leith principally consist of the decomposing effete matters of the animal system, including the solid excrements of fæces, and even in comparatively cold weather evolve abundant offensive odours. V. That the sides and bottoms of the open sewers, of the lades which traverse Edinburgh, and the bed of the Water of Leith in the neighbourhood of the city, are more or less covered with offensive and unsightly organic growths characteristic of streams and open drains which convey sewage matters. VI. That the bottom of the open sewers, the bottom of the lades of Edinburgh, the bed of the Water of Leith from Edinburgh downwards, and the harbour of Leith, are more or less thickly covered with organic matter in an advanced stage of putrefaction, which fills up the rocky pools at certain parts and renders the dams vast open cesspools. VII. That the signs of animal life visible to the naked eye in the Water of Leith, after commencing to receive the sewage of Edinburgh, consist mainly of multitudes of minute worms, which are characteristic of waters conveying sewage, and may be regarded as the last remnant of animal life which will survive in such a locality; and even these die off in many places during the summer weather, and when the putrescence of the organic matter proceeds more rapidly. VIII. That the organic sedimentary matters which are deposited in the bed of the Water of Leith, from the entrance of the sewage downward, in the harbours of Leith, and in the various lades, are in a state of active putrefactive fermentation, and the slightest agitation of the deposit gives rise to the abundant evolution into the surrounding atmosphere of those gases which are well known to be evolved from decomposing vegetable and animal matters. IX. That whilst all healthy water contains a considerable proportion of oxygen gas dissolved therein, which can act in consuming any organic impurities which may pass thereinto, the Water of Leith, after mixing with the sewage matter, is found to be practically devoid of oxygen gas, and the contents of the sewers are found equally devoid of oxygen gas, so the waters of the sewers and the Water of Leith, from Edinburgh downwards, are practically devoid of any purifier, and must allow their contents to become putrescent. X. That the putrescence of the organic liquids and deposits in all weather, but especially in summer, and the evolution of noxious gases therefrom, leads to the terrible contamination of the surrounding atmosphere, and consequently decreases the purity and healthiness of the air. XI. That, taking all these circumstances into consideration, I am decidedly of opinion that the discharge of sewage matter into the Water of Leith in any weather, but especially in the summer months, leads to the accumulation of organic matter of a most offensive nature, and that

the consequent putrefaction of this organic matter gives rise to the evolution of gases which are highly offensive and pernicious, and must render the neighbouring localities more or less unwholesome. XII. That the condition of the Water and harbour of Leith is much more noxious than any part of the Thames, as the proportion of organic matter is much greater, and the locks, pools, and dams afford more obstacles to the flow of the sewage, and that the time has certainly arrived, when a main drainage scheme is absolutely required for the purification of the Water of Leith.

INFANT MORTALITY.*

What are the Causes, and what are the Means for the Prevention of excessive Infant Mortality?

In addition to the papers by Mr. Husband and Mr. Ikin, printed at pp. 498, 509.

Dr. Trench, Medical Officer of Health for the Borough of Liverpool, read a paper "On Excessive Infant Mortality;" with a synopsis of the annual and quarterly mortality of the borough of Liverpool during the last ten years. The population of Liverpool at the census of 1851 was 375,955, at that of 1861 it was 443,938; the number of deaths registered from January 1, 1854, to December 31, 1863, was 130,009; of which 65,238, or more than half, were of children under five years of age. This infantile mortality is arranged in various proportions under all classes of our nosology. Of every thousand deaths, zymotics account for 371; tubercular diseases for 84; diseases of the brain for 116; of the lungs for 178; of the stomach and bowels for 38; of other organs and textures for 13. So far physicians are able to localise with more or less accuracy the pathological accidents of four-fifths of registered deaths of children—the remaining one-fifth embraces premature birth, malformations, wasting, debility, privation, accident, and crimes as the causes of the fatal end. Dr. Trench then stated the conditions under which these several causes of infant mortality produced their most fatal effects, and held that his statement of facts showed unmistakably that a great portion of the deaths of children was attributable either to the type or constitution of epidemic disease, or to moral causes or to defects in the internal economy of houses of the lower classes, with which the law did not and could not grapple. He thought that the necessity of obtaining proper space around buildings, of avoiding overcrowding of houses on superficial area, of securing good drainage, and removing middens and every other cause of prejudicial nuisance—precautions which belonged to the external condition and neighbourhood of the dwellings of our poor—

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* See *Transactions*, 1860, pp. 632, 648.

were very properly placed under the responsibility of official surveillance; their importance was not fully recognised, but, he believed, very honestly met by the strenuous exertions of Boards of Health. It was, however, in regulating the hygiene of the inner homes and social habits of the poor that the greatest and almost insuperable difficulties were to be found. The ignorance and selfishness of the parents had to be removed, and maternal love could not be enforced by law. It was only in the teaching and ministering charity of educated women that there rose one beam of hopeful amendment in this respect. Dr. Trench's paper has been published in a separate form, by the Liverpool Committee of Health, with the sanction of the Council of the Association.*

DISCUSSION.

Dr. Thomas Ballard: A long and careful study of the diseases of infants and children has led me to the conclusion that the mode of administering the food is of equal, if not greater, importance than the nature of the food itself. Regarding the quantity of food necessary for the rearing of infants I very much doubt if any considerable number die actually from the wilful witholding of, or the positive inability to obtain that which is necessary. As to the quality of food adapted for infants, there is not much scope for difference of opinion. No one doubts that for the first nine months, the natural food is beyond all comparison the most proper, and when this cannot be obtained, that milk from some other source should be employed. But the important fact which it was my privilege first to observe and to record—and which I may say forms the foundation of my observations on the present occasion—is that the exercise of the instinctive act of sucking, by an infant, when it does not obtain food thereby, is a great source of disease and death. This insidious evil is in continual operation in cases where food abounds as well as where it is scanty; it is not peculiar to any class of society or any district, but prevails generally in the mansions of the rich, as well as in the cottages of the poor. It is quite evident that infant mortality is concentrated on the period of an infant's life during which it is destined to obtain its food by sucking. The arguments and evidences which I am accustomed to adduce in support of my views are so purely pathological that they are more properly adapted to a strictly professional audience than such an assembly as the present, yet in order to make my subject intelligible, I must briefly state that the immediate effect of this evil I have pointed out is to produce a disorder of the bowels, which is the evidence of the progress of a very serious state of disease. This disorder, from its frequency, has long been regarded by mothers and nurses, and I may say, by physicians also, as a natural and healthy condition, or it is attributed to the growth of the teeth, and in cases where the child has had the good fortune to escape it, so strong is the belief in its salutary effects that medical means are continually employed to supplement it. At length, when the more serious phases of disease disclose themselves—which are only the inevitable consequences of a persistence of the preceding condition—the little patient is declared to have fallen a victim either to the natural process of evolving its teeth, or to some supposed constitutional influence which it has inherited from its parents, and its death is recorded to swell the numbers of the Registrar-General's Returns either under class 4—developmental diseases—or class 2—constitutional diseases—unless indeed the mode of death be convulsions, in which case it would be added to class 3—that of local diseases. But, should the child have succumbed to a great severity of the first symptom—namely, the abdominal disorder which is frequently the case, especially in the summer months—then it is recorded as diarrhœa under class 1—zymotic disease. The point I am anxious to see generally admitted

* Liverpool; Henry Greenwood, 32 Castle Street.

is, that a very large number of deaths of infants included in classes 1, 2, 3, and 4, are merely links in a chain of which diarrhœa constitutes the first and principal one,—that is to say, that without it the others do not occur; and that this diarrhœa is in a great measure caused by the evil to which I am now inviting your attention. In support of the cardinal point of my subject, I submit to you the evidence which is afforded by the Vienna Foundling Hospital. Dr. Wilde, in his work on the Institutions of Austria, gives a table of the mortality of this hospital, extending over a period of fifty years. It ranges from 95 to 30 per cent., and this lowest figure has only been reached lately by limiting the time during which the infants were retained in the hospital, to two months. He also states that abdominal disorders constitute the principal form of disease which causes this great mortality, and that every means had been tried in vain to check them. Imperial commissioners were appointed, and experiments made with various kinds of food—with no other result than the deaths of all those experimented on. A few pages further on he mentions another circumstance in which I recognise the subtle cause of all this mischief. He says, "Every infant admitted to this hospital, no matter whether it is suckled by its parent or not, is supplied with a sugar teat formed by tying up some bread and sugar in a piece of rag, which is then placed in the child's mouth for it to suck." The effect of this must be to produce that abdominal disorder which is found to be so intractable and so fatal. But the use of this sugar teat is not peculiar to the Germans; it is in common use among ourselves in all grades of society. The child cannot cry while it is sucking; therefore the sugar teat is found to be a useful tool for the nurse. In the workhouse and the cottage, the child is kept quiet by means of it, and the monthly nurse of a princess or a tradesman's wife will save herself and her lady from being disturbed by the child's cries, by its use. Many nurses keep it in their pockets, and only use it when unobserved. Recently an eminent physician-accoucheur told me that he always recommended its use. There are other forms of fruitless sucking to which infants are subjected, and from which they consequently suffer, but none so desperately bad as this. The mother's breast, when it does not yield all the infant requires, becomes a source of the evil. The various apparatus which are in constant use for supplementing the natural food are for the most part faulty; they do not yield their contents when the child sucks, but only in the intervals of its efforts—consequently the act of sucking is persevered with under unfavourable circumstances, and the child suffers in some degree the ill effects of fruitless sucking. I allude to the bottles fitted with teats of washleather, parchment, the skin of the calve's teat, and the like. These substances collapse under the pressure of the gums and tongue, and during the effort of sucking the flow is stopped. As I am now only considering the mortality of infants, I cannot engage your attention with the effects of this evil upon those who, though suffering from it, yet escape death; beyond alluding to some of them as evidences of its existence. Those children who have been exposed to this evil when infants very frequently retain a habit of fruitless sucking—such as either sucking the blanket when they go to sleep, or sucking some portion of the hand or tongue; the direct effects of which are either to injure the germs of the then growing second teeth, which, when cut, appear with roughened edges and honeycombed fronts, or where the tongue or some portion of the hand is sucked, the jaws are usually distorted. In that case, either the upper jaw projects or the lower jaw is drawn in advance of the upper—these features being usually the accompaniments of some weakness of constitution, delicacy of health, or imperfect growth of body, which is, in fact, dependent upon the original evil I am now considering. The culminating point of these living evidences of the truth of my doctrine is to be seen in the idiots and imbeciles—individuals who have been unfortunate enough not to die, in early childhood, of their diarrhœa, fits, &c., but have lived on, in various stages of defective growth, but still engaged in continual acts of sucking, or bearing evidence in their features of having done so while their jawbones were young and soft enough to yield to the pressure thereby applied to them. This part of the subject may be verified in almost any poorhouse, or in one of the asylums devoted to the reception of idiots. I could dilate largely on the mischief which results from this hitherto unrecognised evil; but it is enough for the present to maintain the opinion that

it is a generally prevailing cause of a vast amount of infant mortality—which I believe may be greatly diminished by a promulgation of correct views on this subject; and I hope my having brought it before this Association may prove to be an important mode of effecting this. The principal practical points with which I think every mother and nurse ought to be fully acquainted are these:—1. That disorder of the bowels is always a serious disease, and under no circumstances should be allowed to continue; that it is never natural nor salutary; that it is not cured by the growth of the teeth, which, being a natural process, is not likely to cause disease; that it should never be produced artificially by the administration of domestic medicines, and that medicines should be altogether withheld from infants, except when administered by properly qualified medical practitioners. 2. When a mother is suckling her infant, if its bowels are disordered, the best remedy is to permit it to suck less, and to administer by means of a spoon, some milk and water, with or without some farinaceous substance added to it. 3. The sugar teat, or anything of the same nature, should on no account be used. 4. When an infant has not the advantage of the breast, during the first six months it should be fed with milk and water from an artificial sucking apparatus; but this should be of such a kind that the fluid flows only when the child sucks. There is but one apparatus to be found in the shops at present which possesses this quality; but should the principle I am contending for become generally appreciated, there would soon be as abundant a supply of efficient apparatus as there is now of inefficient and defective ones. Thick food should always be given by means of the spoon. In the fifth and last place—In those cases where the child has been unfortunate enough to contract a habit of sucking its hand or tongue, decided and persevering measures should be employed to correct it. An ample experience justifies me in asserting that infants reared according to these directions grow and thrive perfectly, and seem to bid defiance to constitutional defects which under other circumstances they might have been supposed to have inherited.

Mr. James Raper: This general fact stands out prominently before us—that infant mortality prevails to an excessive and deplorable extent; and I differ most decidedly from one conclusion that was drawn by Mr. Husband, that nothing towards remedying this evil can be done by Acts of Parliament. I say that Parliament has the power of improving the health of the community—of keeping down the rate of mortality—by removing the means by which health is destroyed. With reference to Lancashire, I just want to make what I think a necessary explanation regarding the figures showing the number of females who sign the marriage register. These have been said to give an indication of the state of these people with regard to education. I wish that those who take this view of the matter, and who do not live in Lancashire, would come there on any day when there is a marriage festival. If they saw a great gathering of people, and about sixty couples married at one time, I think they would come to the conclusion that it was altogether a mistake to regard the number of marriage signatures as indicating the educational condition of the people. The fact is that in the manufacturing districts of Lancashire it is the custom of the people to avail themselves of holiday seasons for the consummation of marriages, and as many as sixty at a time take place at the parish churches of such places as Manchester and Liverpool. The time this requires is such that the registrar often finds himself unable to get all the signatures appended by the people themselves; and the consequence is that many of the girls on passing up to the registrar simply touch the pen, and a cross is made in a moment. The fact is that the time is often so much taken up, that the registrar will not allow them to append their signatures. And, in reference to early marriages, I hold that there may be concurrent circumstances, such as poverty, producing evil effects; but such marriages *per se* are rather beneficial than otherwise. Then, again, I have been remarkably struck with the large number of infant deaths that occur on Saturday, Sunday, and Monday. [Dr. Lankester: Especially on Sunday.] Yes; Dr. Lankester is right. According to the reports of the coroners of Liverpool, it appears that 72 cases of deaths of infants which had occurred from suffocation between Saturday and Monday were brought before the Coroner's Court. [Dr. Trench: The greater number of these cases occur on the Sunday; the parents, having been

paid their wages on Saturday, get drunk and neglect their children.] Exactly. I was just going to say that—according to the best authorities, including Dr. Trench—the great bulk, in fact nearly the whole, of these cases occur through the drunkenness of the parents. It also appears, according to the statistics for 1863, that upwards of 4,000 cases of suffocation of infants from the drunkenness of their parents occur throughout the United Kingdom every year, on these days alone—Saturdays, Sundays, and Mondays. I think, then, that these facts point to the necessity of a remedy in a direction somewhat different from any which has been mentioned. The Beer Bill of 1830 created 8,000 beershops in Lancashire, and there can be no doubt that these houses, established by law, increased to a great extent the temptations to drunkenness. Now, I say that if a law can so increase the temptations to vice and drunkenness, the removal of that law would remove the temptations to that which produces a great deal of our infant mortality. I have observed the working of this agency producing infant mortality; the father and mother, paid their wages on the Saturday, go and get drunk together, and smother their infant during the night. I have seen such cases come up, over and over again; and on one occasion, when the parents were up at the inquest on their third child who had so died, the coroner said that nothing would meet these cases but an Act of Parliament.

Dr. Yeats: I lived at one time for four years in Holland, and no such practice as that alluded to by Dr. Ballard existed there. I passed from that to another part of the Continent, and after living there for some time, found in every family some member suffering from disease. And I found it was the constant habit of the mother of the children, or the nurse, to put into the mouth of the child such an instrument as that which Dr. Ballard has described, notwithstanding its own unwillingness; and I ventured to risk the opinion whether the using of that instrument had not something to do with the illness of the children. I am glad now to hear a confirmation of my own views in the matter.

Mr. P. H. Holland: With a view to reduce infant mortality, it is of great importance—next to improving the habits, the personal habits of many of the parents—that attention should be directed to improving the internal arrangements of their dwelling-houses. Many of you, I have no doubt, are quite well aware that milk, for instance, as an article of food, is scarcely known to the poorer class of the population in our large towns. It has been with me a matter of great anxiety to see that proper and natural food was given to young children that had been attacked with disease. There are plenty of mothers who cannot supply it from the natural source; and the only substitute is cow's milk, but it is scarcely used—in our large towns—except by the higher classes, as an article of diet. Something might also be done to enable the poor to use milk as a portion of their regular food. Why should milk be as dear as beer? Why should there be such a great difference between its original cost and the cost of its distribution? But the great difficulty is to get parents to pay proper attention to their children. Through ignorance, carelessness, and drunken habits, the children are neglected. If those who really know how to nurse properly would do what they can to spread that knowledge, they would confer an inestimable benefit on their country, and on their fellow-creatures. Then, one word in reference to burial clubs. I think it would be a great misfortune if those useful and most praiseworthy efforts which the poor make to preserve themselves from want in case of emergency, should be in any way discouraged; but I really think that burial clubs, as at present constituted, ought to be abolished. They are objectionable for this reason—that they make the death of a child profitable to the parents. The avowed object of these burial clubs is to provide for the expense of funerals. Let that be done and that only. Let it be made a rule that the expense of the funeral be paid, not to the parents but to the undertaker, to bury the child; thus, while there would then be no profit to the parents from the death of the child, they would be secured against the expenses of the funeral. The insurance should be one, not against the death of a child, but against the expense of burial. I am sure that many of these poor people make a profit by their children's death; and when the children are sick, it is said, they often actually neglect them, in the prospect of receiving money in the event of death. That may not be the case, but I say it is so represented:

and I cannot shut my eyes to the fact that if actually the case, we could easily, by removing the cause, provide the remedy. I paid a visit to the Foundling Hospital in Paris, hoping and expecting to find there a lot of children, comfortable, contented, and cheerful. The principal dormitory—I am now telling you the facts as I saw them—the principal dormitory was a very pretty, airy room, with about eighty little cots for the children—which was all very well—but instead of an air of cheerfulness, which I had expected, there was a miserable weak wailing, not very distinct at first, but which, I assure you, did not get out of my mind for weeks. All these little things were young infants, none of them more than a year old; and there they lay in their little cots—not crying as we usually hear children crying, because they had not sufficient strength—but sending forth those melancholy sounds which I have just described. Now, there are only four nurses to attend to all those sixty infants! Just fancy four nurses to attend properly to sixty young wailing children! I went round the room and looked into every cot. I found many of the poor little things with their hands in their mouths—as I supposed, from hunger—and every one was uttering that very affecting moan by which I was so much impressed. One of the four nurses, while I was there, came to one of the children, and I had an opportunity of judging from the way in which it was treated, of the treatment which the whole of these helpless children receive. The nurse took up the child, and poured some milk down its throat, just as if she had been filling a bottle, and it is a great wonder the poor little thing was not choked. I believe the children in that place do not all die, but I think it is a wonder, considering the way in which they are treated; I hope that such a system will never be introduced into this country.

Mr. Baker, Inspector of Factories, here read the passages from his last Report bearing on the question.*

Dr. Lankester: You have heard to-day to what a fearful extent the mortality of infants prevails, and to what a variety of causes it is due. As a medical officer of health—as a coroner—I have had occasion to inquire extensively into the causes of death amongst children; and there are certain causes that come before the coroner, that are, I think, sufficiently alarming to demand an immediate remedy. The cases to which I allude have already been touched upon to-day; I refer to cases of infanticide. These are the most horrifying cases of death with which I have to deal. In the district of Central Middlesex, comprising a population of nearly 1,000,000, I find that in one year I held eighty inquests on children; and in seventy-five of these the juries returned a verdict of wilful murder against some person or persons unknown. Although eighty cases are brought before me in a year I do not think that represents more than one-half the number of the cases of infanticide that actually occur. There are many of the cases that are never discovered at all, and I believe the opportunities for throwing murdered newly born children into ponds, and of burying them before the crime is discovered, are much greater in the country than they are in London. The extent of this crime may be judged of by a little consideration. The mothers of these children, judging from those who are found out, average about twenty years of age. I have said that in a year there are about eighty cases discovered and we may assume that there are as many that are not discovered. This gives us 160 women in my district committing infanticide in one year. It is however not to be supposed that the same mothers commit the crime every year, but that another 160 commit the crime the next year. The expectancy of a woman's life at twenty years is sixty. You have, therefore, only to multiply 160 by forty as the difference between twenty (their present age), and sixty (the age to which the mothers may be expected to live), and you get the number of women now living who have committed infanticide in the central district of Middlesex. That gives 6,400 women now living who have committed infanticide; or a total for the whole of London of nearly 20,000. If the crime is as frequent in other parts of the country as in London, the number of these murders every year is perfectly frightful, and I say we ought to be dumb with regard to the immorality of other nations till we have purged ourselves of this foul crime. I think we

* See Report, 1864, p. 27—35.

must not excuse these women. I don't think anyone ought to excuse them. It is true that they may—and that they often do when they are found out—escape from any punishment at all; but when we remember that the greatest and noblest charge that God commits to women is their children, how is it—how can it be just—that they should escape punishment for this worst of all crimes? This then is one great cause of infant death. But there is another which has become very common. In a report which I read at one of the London meetings of this admirable Association, I find that in one year I held inquests on ninety children who had been suffocated in bed. This part of the subject has been already discussed to some extent: I would, however, call attention to the fact that a large number of these children are found dead on a Sunday morning, and I fear many of them are caused by Saturday night orgies. It is, however, very difficult to get satisfactory evidence on this point. I think that at least 25 per cent. of these cases of suffocation arise from the drunkenness of one or both of the parents. I believe that drunkenness is one of the great causes of crime in our country, and the frequent and fruitful cause of infant mortality. I believe that one-half of the cases of death that come before the coroners' courts, are cases arising out of drunkenness. It is matter for great regret that there is among all classes a large amount of ignorance prevailing with regard to the management of children. Most young women marry without knowing how to manage children; and this I believe to be the frequent cause of suffocation amongst people whom you could not suppose guilty of neglect. This ignorance, I have said, is not confined to the poorer or to the middle classes, but it is to be found in the higher ranks of society. It is an ignorance, the removal of which would confer a great benefit on the country at large. If the money that is in many cases spent in teaching young women to play the piano, were spent in giving them a good domestic education, in teaching them as to the nature of pure air, and the proper treatment of children, many of the cases of suffocation would be prevented, as well as a host of diseases by which the lives of children are sacrificed. I feel, therefore, that while we should endeavour to improve the habits of the lower classes with a view to lessening infant mortality, that we must also give sound instruction to all classes of the community on the laws of life, before we apply for the interference of the Legislature. I would rather not have the Government interfering at all, than see it enact laws which it is not able to carry into effect. We might make a law in England, as in some parts of Germany, to the effect that the parents should not sleep in bed with the child till it was two years old, but how would you like to have a policeman knocking at your door to see that such a law was enforced? There is another class of cases as to which I should like to say a few words; and that is, of children who die, and in regard to whom very doubtful certificates are given. There is a great necessity for a better class of medical certificates. There is a certain form which medical men are requested to sign and fill up, and in many cases it requires a stretch of conscience before they can satisfy the coroner that a child had come by its death legitimately. I know of cases where medical men had not seen their patients for weeks or months, who when waited on by their mothers, and told that they had died of convulsions, have given certificates to that effect. Such certificates are of course utterly worthless, as proof that no further inquiry is needed. I think if a system were instituted by which more strict inquiry were made, we should get rid of a great many deaths of children from neglect on the part of their parents, and more especially their mothers. It is the case in London, as in other places, that women who are mothers of children, go out to work as milliners, dressmakers, &c., and leave their children at home under the charge of the older children or an old woman; and the neglect to which they are thus exposed often leads to their death. I was much struck with the statement made by Mr. Husband with regard to the fen districts of England. I think that in any case of supposed neglect, where a mother leaves her child in the hands of another, and the child should die, and no medical certificate of death is forthcoming, that the fullest inquiry should be made, and the coroner should hold his inquest. I believe that if this practice were carried out, such deaths would cease to a very great extent. There is another point to which I would draw the attention of the meeting, and that is the defects of our system of registration of births. Both in Ireland and Scotland they have

a better system of registering births than we have in England: and I think it would be only fair for us to get—and right of us to demand that England should have—as good a system of registration as they have in Ireland and Scotland. At a recent meeting of the medical officers of health in London it was stated that 15 per cent. of the births that take place in London are not registered at all. The same motives which lead to the concealment of the birth will lead to the neglect and the premature death of the child. Another defect in our registration is that no notice is taken of still-born children. Thus, if a child dies many days after its birth, all that is necessary for the person to do who takes it to the undertaker is to declare that it was still-born. The persons who do this may have no character, no name: but their statements are taken as evidence, notwithstanding. In this way there are hundreds of cases annually in which the dead bodies of children are taken to the undertaker as having been still-born, while in reality they are born alive. Under these circumstances I think we might interfere most effectually by law in improving our present Registration Act. Another means by which I think a great deal of good might be done—and I was glad to hear Dr. Trench follow up that line of argument—and that is by the agency of philanthropic, kind-hearted, Christian women, in educating young girls. It is the girl that grows to be a woman, and it is the woman that has the care of the infant. Women, before they become mothers, should have brought before them the details and requirements of a child's life, so as to enable them to avoid the errors which so obviously contribute to our infant mortality. I think that in every school—that has a governing body—care should be taken to provide for the teaching of good sound physiology. There is another point to which Mr. Husband directed our attention—I mean the necessity of medical officers of health. I do think it is most desirable that these officers should be appointed throughout the country. They are as much wanted in the country as in London. These medical officers ought to be appointed by the Government, or at least put on such an independent footing that their proceedings may not be liable to interference by corporations, vestries, and Boards of Guardians which may be composed of individuals either interested in maintaining sanitary abuses, or utterly incapable of comprehending the necessity of sanitary action. In some instances in London the medical officers of health do not feel themselves sufficiently independent of the local boards to carry out many measures which they consider necessary for the public health. It is much to be desired that public opinion should be brought to bear upon this point so as to support those who are employed in removing the sources of disease and death which affect the community. There is one other point to which too much attention can hardly be given. I allude to the feeding of young children. And here, again, ignorance comes in as the cause of the mischief. The natural food of the child under twelve months old is its mother's milk, but a large number of children are fed artificially, and it is these children amongst which deaths from natural causes are most frequent. Definite instructions ought to be given by medical men as to how children ought to be fed. Those who know, from experience, what is the proper mode of feeding children, ought to be ready to instruct those who are ignorant. In conclusion, I hope that our discussion on this important subject will lead to greater effort on the part of all to remove the disgrace which lies at the door of our present civilisation of allowing nearly half a million of our population to perish from preventible causes before it is five years old.

Mr. Husband: I think it would be very wrong if, in the discussion of this subject, we were to attribute infant mortality to any one single cause. There can be no doubt of that. What I stated in the outset has been amply corroborated and proved during the discussion—that want of fresh air in crowded populations, want of morality and intelligence among the lower classes, the consequent neglect of children, and that neglect also which results from the mother, the natural guardian of the child, leaving it and going to other occupations, are all fruitful causes of infant mortality. I think the recommendation that you should have medical officers of health that would act in the capacity of medical missionaries, would be attended with incalculable benefit. In regard to Acts of Parliament, I will just say again what I have said before, that by no coercive legislation can you remedy the existing evils: and that the strongest Act of Parliament cannot do so much as we can do ourselves, if we carry the people with us, and enlighten

them as to their duty and interest in this matter. That is the best way of remedying the ignorance and neglect which we so much deplore. This ignorance is by no means confined to one particular class. I attended, on one occasion, a lady in high position, and when her child was born she said to me, "I have been taught a great deal, but now I do wish I had been taught how to bring up my child." I believe that if pains were taken to instruct the people in the right management of children, it would go far to reduce our excessive infant mortality.

THE PRESIDENT: I cannot but express my gratification at the success which has attended the introduction of these special questions. It is the first occasion on which the experiment has been tried; and, so far as this Department is concerned, I am glad to say—and I am sure you will agree with me—that the success has been most brilliant. I have now to submit to you, as the result at which this Department has arrived, the following resolution, which I think you will find does not trench on disputable ground, but is a fair deduction from the facts brought forward during the discussion:

"That this Department, feeling that the great mortality of children under five years of age is largely due to removable causes, and, among others, to the ignorance of mothers of the way in which their children should be managed, and their carelessness of the welfare of their offspring, recommend for the purpose of checking the latter, a compulsory registration of births and the registration before burial of all deaths, in which no proper medical certificate has been obtained."

The resolution was carried unanimously.

OVERCROWDING.

What is the Influence on Health of the Overcrowding of Dwelling-houses and Workshops? And by what means could such Overcrowding be Prevented?

In addition to the paper on the question by Mr. GODWIN, printed at p. 512.

Mr. JOHN HOLMES read a paper "On Overcrowding and Mortality in the Borough of Leeds," of which the following is an abstract:—By the census of 1851, the population of Leeds amounted to 172,270 persons. In 1861 the numbers were 207,165; an increase of 34,876, or 20 per cent. Since 1861 the increase has been still more rapid, although the numbers and rate have not been definitely obtained. The increase of numbers, and of manufactures, trade, and wealth would be very satisfactory, did we not as unmistakably perceive, also, that the mortality of the people is increasing in a similar ratio. Thus, in 1861, the death rate in the township of Leeds was 25·721 per 1,000; in 1862, 27·688; and in 1863 it had reached 32·815.

This very alarming increase of mortality led the Poor Law Guardians to direct their attention to its causes, and their officer reported that, besides the ordinary nuisances tending to germinate and to spread disease, there is at the present time a state of overcrowding in the dwellings of the operative classes, and among the poor especially. A calculation has been made by the officer, Mr. O'Rouke, that it would require at least 2,000 houses in addition to provide

persons with proper accommodation, were the cellar dwellings and overcrowding of unfit houses to be properly abated.

As specimens of the condition in which people are found living, or rather herding together, Mr. Lampen, clerk to the guardians, has selected the following:—

East ward, a cellar with four beds. In No. 1 bed, a man, his wife, and three children; No. 2 bed, two men; No. 3 bed, a man and woman; No. 4 bed, a man and woman; and there were two dogs in addition. The dimensions of the cellar was 12 feet by 11, and 5½ feet high.

Another cellar—No. 1 bed, a man, woman, and child; No. 2 bed, a woman; No. 3 bed, three men. Dimensions as before; condition damp, dark, and dirty.

North-east ward—a chamber over a privy. No. 1 bed, two men; No. 2 bed, a man, woman, and two children; No. 3 bed, two women. Wages of the people in this room found to be £3 per week.

This return was made to the guardians on the 14th of September last, and many worse cases in lodging-houses have been brought before the magistrates, abated, fined, or shut up for neglect of amendment after notice: but both guardians, magistrates, and officials feel the force of the excuse and the reply made, viz., "they cannot get houses to go into of a kind such as they need." A back-to-back cottage, with cellar, house, and one sleeping room, readily commands 2*s.* 6*d.* per week rent; while a single dwelling-house of scullery and living room, and two chambers, cannot be got under 3*s.*, to 3*s.* 6*d.*, or 4*s.* per week rent.

In the instance of the case above named, the wages of the three men did but average 15*s.* a week; and the two women, factory workers, but 7*s.* 6*d.* each; and it is hopeless to expect these people to pay either 3*s.* or 2*s.* 6*d.* each, out of their weekly earnings. While doubtless there are various causes tending to affect life and health injuriously in large manufacturing towns, it is clear that overcrowding is one of the principal.

In 1861 the township of Leeds numbered 117,431, and the mortality was 25,675. And the out-township numbering 89,703, with a mortality of 24,708. The town districts vary from 42,921 to 21,485; and the out-townships from 15,389 to 27,300 of deaths per thousand of the residents. The population varies from one and a half per statute acre in the country (as at Headingly and Farnley) to 158, as in the north ward of Leeds. Position, manufactures, drainage, mode of life, &c., vary and modify the results; the infirmary, house of recovery, and workhouse, make a considerable difference in the districts, but still there is definite evidence that, *ceteris paribus*, over-crowding and mortality have an intimate co-relation.

DISCUSSION.

Dr. Trench: I am sure we must be all convinced of the dangers and the evil consequences of overcrowding, whether it be of dwelling-houses or of workshops.

I do not think that we can speak too strongly as to the effects of it; the question is—what is the remedy? We have at present the power to regulate the number of people living in one room; provided the persons are not of one family, the law permits us to turn them out; but where are they to go? The people are already almost unable to get a covering for their heads; and the remedy which the law puts in our hands is simply to send them to the poorhouse or into the open air. The difficulty is so great, that in many cases I have found that we held a power which we were utterly unable to put into operation. With regard to the suggestion that we should put dwelling-houses under the same regulations as lodging-houses, I see great difficulty in carrying that into effect. We find a natural jealousy on the part of the people toward inspection even in the lodging-house department. To put the Act strictly in force in Liverpool, the houses in that part of the town where the poorer classes reside, would require to be under daily and weekly inspection. What we are called upon to do is to endeavour to place the remedy within the reach of the people themselves, by providing a better supply of cheap houses for the poor of the population. I have not prepared any facts on the subject; but on one occasion my attention was called to a house that was let for £16 of yearly rental. I found every room in that house occupied by a different family, and I took the opportunity of asking from each a statement as to what they paid. The old man and woman who kept the house, had a room; and I learned that they had a clear income, after paying everything, of about £50. If the rich would come forward and provide accommodation for the poor they would be ready enough to avail themselves of it, and to pay for it too.

Mr. Charles Gray Mott: In the town of Birkenhead where I reside, we have a large population, a considerable proportion of whom are Irish, and—as all who know the habits of these people are aware—they are remarkable for congregating closely together and overcrowding. When we entered on the dock-work operations, the town was literally inundated by two or three thousand Irish navvies; and the crowding in the houses was then so great that not only were the rooms filled with beds closely packed during the night, but many of these beds were, without any alteration, occupied during the day by those who had been at work during the night. The evil effects of this can be easily imagined; and in fact it was scarcely possible to go near these places in the early part of the morning. Last year we obtained a special power for the prevention of overcrowding. There has been an appointment made this year of a medical officer of the town to see that the Act is put properly in force; and where we find a case of overcrowding now the parties are brought before a magistrate, and the evil at once remedied. We believe that this will have the effect which is desired. Every family should have two rooms for occupation; and the magistrate in our locality, acting upon this rule, has, as far as possible, carried it out, with the most satisfactory results. Last Christmas, our mortality by smallpox and fever had risen to no less than 38 per thousand, but by enforcing the regulation I have mentioned, and adopting other sanitary measures, it had been reduced to an average of 21 per thousand for the last nine months. Now, other burghs could obtain the same powers; which, I believe, combined with the adoption of the best sanitary regulations as regards building, would, to a great extent, remove the evils which at present exist. I am happy to say that in Liverpool the authorities have just adopted the same regulations, and are now moving in the same direction. Dr. Trench referred to the difficulty of providing accommodation in large towns for people who are turned out by these provisions; but although we see that, by the enforcing of such laws for the preservation of health, a temporary evil is occasioned, yet that very temporary evil removes itself by the demand for temporary house accommodation which it causes. I say it seems absolutely necessary, therefore, that these provisions should be strictly enforced. But if in country districts near to our large towns, large numbers of small houses were erected for working people, with a special arrangement made for their rapid conveyance to and from their places of labour, I am certain it would be attended with the most beneficial results to the health of our densely populated towns. It is no argument at all to say that working people employed in towns will not go to live in the suburbs. That is merely because they have not at present the accom-

modation for living there, nor the means of conveyance to and from their work at a low charge. A gentleman in the neighbourhood of Birkenhead has taken a large piece of land, and is laying it out in the erection of small semi-detached villas, especially suitable for working people, with a very small piece of garden ground to each. From the place I have mentioned where the houses are to be erected, to Birkenhead, the distance is 1¼ miles, and the charge for conveyance is 1*d*. I believe that one great means of remedying the present evils of overcrowding, would be by building cheap houses in the suburbs, and giving the labouring classes an opportunity of extricating themselves from the crowded parts of our densely populated towns.

Sir George Strickland: I entirely concur with the views expressed by the gentleman who has just spoken. We cannot interfere with private proprietors, and compel them to build houses for other people, and to let them for less than they are worth. But we may improve the habits of the people, and create in them a desire for better houses, and I have no doubt that the landed proprietors would see it their interest to have them as soon as possible provided. I also think that railways giving cheap and rapid means of conveyance to people who go to live in the outskirts of our large towns, would be attended with great benefit. Wherever you have an overcrowded population, it will be observed, that you have impaired health and morals, and the consequence of that is, to sap the foundations of energy and self-respect, and the desire on the part of the people themselves to accomplish any elevation in the social scale: and I have no doubt that the adoption of means to improve their sanitary condition is the first step required towards removing the present evils, and so elevating their habits and tastes.

Mr. Rawlinson: It has been my lot for fifteen or sixteen years to visit the seats of population, and the rural villages throughout the country, and everywhere I have found overcrowding and its attendant consequences, misery, disease and crime. It is a mistake to say that before this state of matters can be remedied the working population must improve themselves. You may as well tell the people to roll back the sun in its course. We had one man who in his day was able to see what should be done; and that was the late Prince Consort. He saw that the remedy was to come not from below but from above. Go to any of those scenes which bring out the great mobs from our large cities. Go to a prize-fight or an execution, and you will see the elements that pervade the lower strata of society. But what is to be the remedy? The evil is a national one; and, therefore, the remedy must be national. Lord Shaftesbury by one short simple Act did contend with the worst form of overcrowding: he pressed forward the Lodging-houses Act, and more good has been wrought by that Act than I could possibly describe to you. With regard to the wretched cottage accommodation which exists in the villages throughout England, I could refer you to the parish registers; showing the amount of money paid for the relief of the misery engendered there; and I could show you that parishes pay, week by week and year by year, far more than the entire rental of the property. It is thus that these abominable houses are kept up—houses into which healthy people may go, but out of which nothing but disease and misery come. Now, should we not go and relieve the authorities in such places, by borrowing, under the power we at present have, money at a low rate of interest, removing those dens of disease from off the face of the earth, and putting up the necessary accommodation for the people by whom they are at present occupied? That, I think, would be one way of removing the evil. When we see that the Common Lodging-houses Act has done so much good, let it be made illegal to keep persons in a room in which there is not a certain cubic space allowed to each person. I could take you to a place in England where there is excessive crowding because the property is entailed. A nobleman holds it, whose name I do not care to mention; and I know of my own knowledge more than one part of England which I could only compare to the foot of a Chinese lady—it is so cramped, in consequence of the landed proprietors in the neighbourhood refusing to give the land that is necessary for its extension. The remedy, then, as I have said, must be a national one. The Government must find either better accommodation for these people, or they must find land where cottages can be erected.

The formation of suburban villages for town artisans—with means of cheap and rapid communication with the towns—would be one of the greatest blessings that could be conferred upon the labouring population of the country.

Mr. HENRY ROBERTS: I have for the last twenty years devoted much of my time to the important question of improving the dwellings of the working classes. I agree with Mr. Godwin in the conclusion that the only way to remedy overcrowding in large towns is by the application of a principle such as is involved in the Lodging-houses Act: I believe that it has done an immense deal of good to the lower class of the working classes, and till that principle is extended to other houses, I do not believe that we can get a remedy for the present evils of overcrowding.

Mr. MCGOWAN: One or two remarks have fallen from the gentlemen who have favoured the meeting with an expression of their views on this subject, that strike me as being founded to some extent on imperfect information. I will, therefore, with great deference, make a remark or two with a view to remove this. One gentleman said that it was necessary first to improve the habits and tastes of the people. I take on this point the information given by clergymen; and what they say is that all their attempts to elevate the morals of the people are fruitless, so long as they have not decent habitations. You are thus driven to consider how you can best improve these habitations. It would be a mistake to speak of the working classes; because by that you might understand me to mean artisans who earn good wages, and are well able to take care of themselves —but I mean the habitations of the lower classes who are not able to extricate themselves from the position in which they are now placed. Then the suggestion is made that we should have more legislation on the subject. I fancy that is founded on misconception; there has been in existence for nine years an Act of Parliament which says that on a house being certified by the medical officer of health, if there be one—and if not, by two medical practitioners—to be so overcrowded by members of more than one family as to be injurious to health, the magistrates shall have power to interfere. I wish to draw your earnest attention to that fact. This Act was passed in 1855, and yet we are told in 1864 that overcrowding exists to such a serious extent that we ought to have further legislation on the subject! Let us not ask for more legislation yet, but exercise the powers the legislature has already placed in our hands; and then, if we find that these do not carry us far enough, we can apply for more. My impression is that the powers of which we are now in possession carry us as far as we require to go. Mr. Rawlinson proposed that no one be allowed to live in an apartment that did not have a certain cubic area for every inmate. Now, let me show you how much forbearance must be observed, and what difficulties may arise in the carrying out of such a law. I went on one occasion, in London, to a large lodging place under the supervision of the authorities. In London they have a law that no more than a certain number shall occupy a compartment. [Dr. LANKESTER: That is in the city proper, but not in the metropolis.] Well, the provision is that not more than a given number of persons shall live in one compartment; that is the same, or nearly the same, as Mr. Rawlinson wishes to see made applicable to other parts of the country. Well, there was in one room, a working tailor living with his wife and family, which consisted of grown-up daughters. The number was over that which was sanctioned by the authorities. I asked the man why he was allowed to live there with his family, in such a place, in violation of the regulations. His reply was, "The authorities know it. They have discussed the matter, and won't interfere with me, for this reason:—If I were to take a larger place, I could not get it for rent within my means; farther, my daughters are grown up, and though as we live now there are many inconveniences in the room, yet this is more than counterbalanced by the fact that at night I have my daughters under my own eye." Well, now, my question is not whether the authorities are wrong in letting this Nuisances Removal Act lie almost a dead letter. You would not punish people for their poverty, and if they are not rich enough to get larger houses, propose that they should be driven out of the houses they pay for at present? Before you apply your existing legislation—and much more before you ask for further legislation on the subject—means must be taken to provide shelter for those who may be driven

out of overcrowded dwellings. Because, as Dr. Trench has said, if this is not done you cast these people out to the streets, and where are they to go? Sir George Strickland says that you cannot expect the landlords to build houses, unless they see their way to obtaining a proper return for their expenditure. You are driven to the necessity of asking those who have means at their command to spare some of those means for the promotion of such a high object. A higher object than this cannot be named, because if you get improved and sufficient dwellings for the poor provided, you have taken the first step towards raising them in the scale of society. Then again, if the money for the purpose is to be obtained through legislation, it is evident that that must be done by a tax. I despair altogether of the success of a measure of that description—a measure that would provide for the raising of a tax for erecting dwelling houses at a cheaper rate than would be required to yield a fair profit on the outlay. With reference to the overcrowding of workshops, that is an evil which ought not to be allowed to continue any longer. I do not think the remedy would be attended with much difficulty. Employers of labour should know that if certain requirements are not complied with in their premises, penalties will be imposed; and the employers should be made to see that it is cheaper to do what is right than to continue doing what is wrong.

Mr. Edward Peacock: It appears to me that one great object at which we should aim is to teach the people sanitary science, and to convince them thoroughly that the present character and arrangement of their dwellings are such as to be injurious to health. It has been said that the fact is acknowledged that the atmosphere in which the poorer classes live in their houses is injurious to health, and that it produces disease and death. But I do not think it is at all clear that the majority of the people who are so situated believe in that; I think there are very many amongst them who do not believe that they are any worse for the impure air they breathe in their dwellings. I know doctors and lawyers and Roman Catholic priests who have borne that testimony; and I think therefore we ought to endeavour to show the people themselves the real position in which they stand, and the benefits they would derive from the removal of the present evils. It seems to me that the inspectors of nuisances in the provinces and particularly in small towns and villages throughout the country, do not do the amount of good which they ought to do. We find inspectors in many cases under the ban of the squire, or of the large employers of labour and others, by whom they are influenced in the discharge of their duties to the public. Now I think if these inspectors were appointed public officers in the same way as our inspectors of poor, their position would be one of more independence, they would thus be able more efficiently to perform their duties, and a great benefit would be the result.

Dr. Lees: On the subject under discussion it appears to me that there is no single remedy sufficient to cure evils of the character under consideration, no single line of action that can accomplish all that we desire. There are circumstances that will overcome the very best moral attempts of the religious teacher and the sanitary reformer, and, on the other hand, a great deal may be done by the legislature in the way of removing those hindrances which stand in the way of education; a great deal by the landed proprietor, and a great deal by the co-operation of the working classes themselves.

Dr. Lankester: I presume there is no one present who will deny that this question of overcrowding—its effect on health, and the means by which it can be remedied—is one of the most important that could occupy our attention. I think I am not going beyond the mark when I say that it causes every year about five deaths in the thousand. You will thus find by a very little calculation, that in the population of the country—taking it at 20,000,000—there are about 100,000 persons dying annually, whose lives might be saved by the adoption of proper sanitary measures. I was reminded, when Mr. Peacock began to speak of the medical officers of health, of the fact that when I became medical officer of health in perhaps the richest parish in London, the dirty water of street pumps in one locality produced an attack of cholera, which in a few nights destroyed several hundreds of people. Seeing that we had a plentiful supply of water otherwise, I wanted to close these pumps as soon as possible; but I met

such opposition on the part of the vestry of St. James's, Westminster, that up to the present time these pumps have not been closed. What we want on these questions is increased intelligence—increased knowledge of sanitary science. It is of importance to us all that we should know and understand the cause of that large amount of disease and death; and it is of interest to us all to count the loss which this disease and death annually entails upon us. Now, let us suppose that every death in that 100,000 per annum is a loss to the country of £50. Any man—especially any medical man or officer of health—will tell you that typhoid fever selects as its victims adults in the midst of health; and the value of these lives must be taken at more than £50. But if you put all the 100,000 down at that figure you will find that the life sacrificed every year from this cause is worth £5,000,000 to the country. That is to say, there is an amount of life, there is muscle and sinew, taken away every year, which would have put £5,000,000 into the money bag of the country. I calculate—and I think my medical brethren will bear me out—that for one person that dies five persons may be ill; and it is probable that that fever may spread to twenty before they have recovered. I calculate, then, that apart from the £5,000,000 lost by these deaths in one year, the cost of disease and suffering by those who do not die by it, is about another £5,000,000. This makes a total cost of £10,000,000 per annum. From this point of view we are all interested in the question. The great practical difficulty lies here, that the local authorities do not see the question from this point of view. It is for this reason that movements which would be greatly to the improvement of a locality, and would be attended with the greatest benefit to its population, are checked and frustrated because they demand an expenditure for which the local authorities cannot understand the necessity. In the very case which I have mentioned, the difficulty arose from the fact that the vestrymen could not see the necessity for the sacrifice. In regard to what the legislature has done with reference to this subject, I agree with Mr. McGowan in thinking that the present law is sufficient for our purpose, if it is carried out in a proper manner. The law is most definite, and shows that its framers must have been fully determined that no man should have his life or his health touched by the carelessness or negligence of another. But there are great difficulties in the way of carrying that law into effect. Taking my own parish in London, of which there are three districts; there is one in which the death-rate is very small, about eleven in the thousand. That is a mortality less than you will find in any village in the United Kingdom. There are in this district houses, the families of which probably go to other places to die, but I mention this to show the necessity of taking all the elements that go to make up the death-rate into consideration when discussing this subject. But the mortality of the whole parish is twenty-one in the thousand, which, compared with other districts in London, still leaves us better off than any of these in that respect. And yet one of our districts, that of Berwick Street, is the most overcrowded in the whole of London. About 500 people live on an acre of ground. In this district we have milliners, tailors, shoemakers; everything made in the way of dress is made in this district, and the mortality is 25 in 1,000, or greater than that of the whole of London. Now, if in this district we are to apply the law that in every house a certain number of cubic feet of space be given to every individual, we should require to have a policeman at every door to see that when one family goes out another does not come in. The demand for these dwellings is a temptation to the landlord, and unless you are extremely careful and watchful in seeing that such a law is applied, no diminution of the overcrowding can be expected. These, then, are the difficulties we have to contend with, and which I think are not to be met by fresh legislative enactments. Unless you can encourage a system of dealing with property such as has never been recognised in this country, and enable men to build proper houses in proper places, I am afraid that little can be done by legislation in the way of removing the evils of overcrowding. This could be better done by the cultivation of good feeling on the part of the people, on the part of landlord and tenant, and employers and employed; by co-operation with one another from the conviction that the destruction of health is a thing which everyone is interested in removing. It is the feeling of independence that is

we put these people into something like reasonable and decent habitations. I think this opinion has been concurred in by most of the gentlemen who have spoken on the subject. I do not think, however, that the difficulties referred to in the way of preventing these evils, have arisen so much from any fault of the legislation we have already had, as from other causes. I rather think that the legislation on the subject, so far as yet obtained, has been acted upon without inconvenience, and to the benefit of health and the safety of life. To say that there is no other place for the occupants of overcrowded houses to go to, is quite erroneous. There are thousands of persons living in England in degradation through overcrowding, who might without difficulty—as regards their own income and the provision of houses—go to a better place of residence. There is a sort of fixed price that rises in a village locality; and once accustomed to that the people will not pay more for better accommodation. In these circumstances the legislature should step in and see that no man is allowed to kill perhaps the half of his family by refusing to pay what he is able to pay for a healthy and comfortable house. I remember well the sad occurrence to which Dr. Lankester referred, in one of the districts of London—when by a visitation of cholera, seven hundred persons were carried off in three days, and when the black flag was hung out in the streets as a warning to passengers to avoid the locality. This attack of disease was, as you have heard, in a great degree to be attributed to a want of sanitary measures being adopted in a place unfavourably situated, from overcrowding and other circumstances.

The PRESIDENT then moved the following resolution, which was carried unanimously:

"That this Department, appreciating the fertile evils, both moral and physical, resulting from overcrowding, is greatly impressed with the desirableness of extending the provisions of the Lodging-houses Act to houses let to more than two families, and strongly recommends to the Council the consideration of the steps that ought to be taken, with this end in view."

MISCELLANEOUS.

Dr. KITCHING read an interesting paper entitled, "By what means may the Employment of Children in the Sweeping of Chimneys be prevented?" in which he gave some details from the recent inquiry as to the employment of young children in this occupation, leading to the following conclusions:—That the sweeping of chimneys by young boys, cannot be practised without cruelty and suffering to the children; that the practice is dangerous to limb and life; that it leads to fatal diseases; that it is demoralising and degrading; that it leads to crime and the gaol; and that it is unnecessary.

With regard to the remedies to be applied, he concluded as follows:—Three Acts are in existence on this subject. The first was passed in the 4th & 5th of William IV., c 35; the second passed in the 3rd & 4th of Queen Victoria, c. 85, is still in force; the third is dated June 3, 1864, and is to come into operation on the 1st of November, 1864. By the first two Acts the hopes of the benevolent were greatly encouraged, and associations for promoting the application of the law to offenders were formed in many of the principal towns. Much good was thus done, and many convictions were obtained; one individual alone procured convictions in 400 cases. But the apathy of the general public, the inattention of architects and builders, and the indifference of magistrates, formed

obstacles of so serious a magnitude, that wherever the vigilance o the association flagged, climbing boys abounded, and the Acts o Parliament were disregarded. The Act of last session affords n hope of greater efficiency than its predecessors. It is a very goo Act, supposing it could execute itself. But as the case stands unless philanthropic individuals wil rise at two or three o'clock i the morning, and perambulate the streets of every town, on th watch for juvenile sweeps, observe their entering houses with or afte their masters, then turning informers, courageously pursue th offender till he is convicted; the Act of 1864 will be, like its predecessors, almost a dead letter. The legislation which this great evil calls for, should be not only prohibitory and punitive, but it should be effectual. That legislation which is inoperative without an unjustifiable exertion and sacrifice on the part of unofficial persons, has a serious flaw and imperfection. Parliament has passed an Act, and denounced pains and penalties on its infringement, but it has overlooked the necessity of providing means to enforce its observance.

And yet the remedy appears to the writer to be both easy and practicable. The writer's proposition is, that in every city, town, and borough, where there is an organised police force, no sweep should be allowed to pursue his calling till he has been licensed by the watch committee and registered. That no master sweep be permitted to employ a boy or youth as an assistant, without first bringing proof of the boy's age and of his consent to follow the occupation, and that the boy be licensed and registered like his master. That the night police be enjoined to keep a watch over the operations of all the chimney-sweeps, and be authorised to question any youth whom they may see in the streets, or observe entering any house in the pursuit of his calling. Lastly, that the police be required to take out summonses and prosecute any person who may be discovered infringing the provisions of the Act of Parliament. The course I am advocating is not altogether without precedent; regulations affecting chimney-sweeps, in various respects resembling the above, form part of the Police Act of Glasgow. See sect. 195, page 318, and in the Glasgow Police and Statute Labour Act, 25, 6 Vict., c. 204, is the following clause :—

"Every person desirous of carrying on within the city the calling of a chimney sweep, shall make an application in writing to the magistrates' committee for a license, and shall sign such application and deliver it to the clerk." The large towns of Scotland appear to be free from this abomination.

After some discussion, the following resolution was passed unanimously:—

"That the Council be requested to consider the expediency of calling the attention of the Government to the plan suggested in Dr. Kitching's paper for suppressing the illegal employment of climbing boys; namely, that an enactment, similar to that in force in Glasgow, be applied to all towns in England and Wales."

Mr. C. P. MEASOR read a paper on "The Extension of the Factory Laws," in which he argued that the natural result of their practical application was to drive children into the lower unprotected trades. The remedy was, to make the provisions for the protection of children universally binding.

Dr. BARKER read a paper on "Town and Village Kitchens for Sick-poor Cookery." He regretted the bad and insufficient cookery of the poor, and the difficulty of getting the commonest article of diet for the sick-room properly prepared in their houses. He suggested the establishment of public kitchens, for the supply of suitable food to the sick poor, under the superintendence of medical men, in connection with hospitals, infirmaries, or other existing institutions.

Mr. CLOUGH read a paper on, and exhibited a photograph of, "A Plan for the Cure of Smoky Chimneys." The cost of the application was stated to be four shillings.

On the reading of the paper by Dr. SHANN, "On the Disinfecting Power of Heat," printed at p. 558, after a short discussion, the following resolution was adopted:—

"This Department being deeply impressed with the importance of having the clothing, bedding, &c., of persons affected with contagious diseases disinfected; and it appearing, from the information laid before the Department, that means for effecting this object are obtainable by the application of heat, it was resolved—That it be recommended to the Council of the Association to use their best endeavours to induce local authorities to establish disinfecting places at the public expense."

ECONOMY AND TRADE.

Report of the Standing Committee of the Department.

DURING the past session of Parliament, several important Acts relating to subjects which fall within the scope of this Department have been passed. Of these none excited greater interest both in Parliament and in the country, than the "Act to grant additional facilities for the Purchase of small Government Annuities, and for Assuring Payments of Money on Death." As the principle on which this measure is framed will form a subject of discussion during the present meeting in this Department, the committee do not feel called upon to enter into the question. They would observe, however, that a petition in favour of the measure, from the Council of this Association, was presented to the House of Commons. The petition was as follows:—

"That your petitioners have carefully considered a Bill now before your Honourable House, entitled, 'A Bill to amend the Law relating to the Purchase of Government Annuities through the Medium of Savings Banks,' which purports to provide for the labouring classes the means of purchasing deferred annuities on Government security, and also to enable insurances on life to be effected, for sums not exceeding £100, on the same security.

"Your petitioners are aware that various societies have been established throughout the kingdom, for the purpose of facilitating investments of a similar character on the security of such societies. They believe that such societies, in many instances, have been unsuccessful in the management of their business, and that this failure has frequently arisen from erroneous calculations of the value of life; from expenses of administration, beyond the pecuniary ability of the societies; from mismanagement, especially as to the nature of their investments; and occasionally from fraud.

"That your petitioners further believe, that in the present condition of education among the labouring classes, they are unable to accurately judge of the soundness or unsoundness of such societies, and hence they are often led to make investments, or to pay contributions for a long period, which are subsequently found to be valueless.

"Your petitioners believe, that the failures of which they have spoken have caused wide-spread disappointment and misfortune among the working classes, and have tended to check the develop-

ment of those provident habits, which must form the only secure basis for the independence and prosperity of the people.

"Your petitioners would further point out, that in the present state of insurance business, the labouring classes are, in a great measure, precluded from effecting life insurances for so small a sum as £100, inasmuch as the majority of offices decline to entertain such risks.

"Your petitioners are entirely convinced that great benefit would result to the whole labouring population if such facilities as are contemplated by the said Bill were afforded for enabling small deferred annuities and life insurances to be effected under Government security and regulations. And further, that any difficulty which may formerly have existed through the want of agencies to conduct such business is now almost wholly overcome by the creation of the post office money-order and savings bank offices, now numbering several thousands in the kingdom."

Another important measure which received the sanction of the Legislature was the "Act to make provision for distributing the charge of relief of certain classes of poor persons over the whole of the metropolis." At an early period of the session, a Select Committee had been appointed by the House of Commons to inquire into the administration of the relief of the poor; and the report, to which we shall afterwards advert, recommended, with reference to the metropolitan district, that the charges incurred for the relief of the casual and homeless poor should be paid out of a rate assessed on the annual rateable value of the whole of the metropolis. The Act carries this recommendation into effect; and it is generally admitted, after the experience of the last few years, that some such measure was necessary.

The committee have also to mention the passing of a Bill introduced by Mr. Ewart, to render permissive in any contract or dealing the use of the metric system of weights and measures. The Act has annexed to it a table, which is to be deemed to set forth, in terms of the weights and measures in force in this country, the equivalents of the weights and measures therein expressed in terms of the metric system; and such table may be lawfully used for computing, determining, and expressing, in weights and measures, weights and measures of the metric system. There can be no doubt that if the Act were brought into practical operation to any considerable extent, it would afford valuable evidence either in favour of, or against the system of metrical weights and measures. The committee, on consideration of the best mode of introducing the adoption, would recommend the system to those members of the Association who take an interest in the question.

The committee have already mentioned that a Select Committee of the House of Commons was appointed at an early period of the session to inquire into the administration of the relief of the poor. The subjects which occupied the attention of the committee were metropolitan distress in 1860-61; continuance of a central authority;

power of the poor law board to issue general orders; medical relief; religious rights of inmates of workhouses and district schools; education of pauper children; classification in workhouses; casual and houseless poor in the metropolis, and equalisation of the poor-rate. Much valuable evidence was taken by the Select Committee on all these subjects, and on each of them the Select Committee has reported.

The committee would also call attention to the Report of the Emigration Commissioners presented during last session. The report is for the year 1863, and contains a vast mass of information with respect to emigration and the colonies. It will be found exceedingly valuable when the subject of emigration, on which several papers have been received by this Department, comes to be discussed.

The committee would also refer to the Report of the Registrar of Friendly Societies for the year 1863, which has just been printed, and which will be found to be of great value with reference to one of the subjects to be discussed at the present meeting. One most significant fact stated in the report may be mentioned, viz., that the amount of savings under the post-office system is £7,000,000, of which only £1,000,000 was transferred from the old savings banks.

The committee has further to mention, as connected with the Agricultural Section of this Department, the resolution of Mr. Caird, in the House of Commons, in favour of agricultural statistics. The resolution was carried by a considerable majority. The great difficulty, however, is in discovering any scheme for obtaining such statistics, which would be sufficiently accurate in its results, without involving anything of an inquisitorial character, and which could be worked without much expense. Every year shows more and more the necessity of something being done; and we would, therefore, strongly recommend the subject to the attention of our Agricultural Section, which commences its labours at the present meeting.

INTERNATIONAL AND CONSTITUTIONAL LAW.

International Maritime Law and its Effects upon Trade.
By HENRY ASHWORTH.*

PREVIOUS to 1856 privateering was deemed one of the legitimate means of prosecuting war; and the arguments used in justification of the practice insisted that war must be made calamitous in order to

* The substance of the following paper has been derived mainly from proceedings connected with the Manchester Chamber of Commerce.

expedite its termination. In that year, when the war of the Crimea had been recently brought to a close, the plenipotentiaries, meeting in Paris, decided that privateering should in future be abolished; but, as they made no provision for exempting private property at sea from capture by armed Government vessels, the effect of this resolution was merely to dispossess the privateers of the privilege they had heretofore enjoyed, and to secure to Government ships a monopoly of the plunder. The number of the representatives of various countries who assented to this change was about forty-five; there were those of other countries concerned who were prepared to offer a conditional assent, and it may be assumed that those countries, not represented on the occasion, were not in any way affected by the above resolution; therefore, as the acquiescence was not general, it cannot be said that privateering has been more than partially abolished, and only to the extent of the nations assenting; in all other cases the claim of belligerents to capture private property at sea remains undisturbed by any resolution of the conference.

When the proceedings of this conference were communicated to the American Government, they expressed, through Mr. Marcy, a strong desire to carry out still further the resolution of the plenipotentiaries; not only to put an end to privateering, but also to exempt private property from seizure at sea by Government ships as well as by privateers. This offer was favourably received by France, Russia, and other maritime powers, but was rejected by the British Government.

The inquiry naturally arises, on what ground of wisdom or sound policy could the representatives of Great Britain think to profit by ignoring the proposition of the United States Government? It is well known that the commercial wealth of Great Britain places infinitely more property at hazard on the ocean than is possessed by other countries; and it was shrewdly remarked by Thomas Jefferson, that "as hawks abound in proportion to game, so ships of war would swarm in proportion to the wealth exposed to their prize." Taking into account the enlightened character of the age, the more humane spirit of the times, and our high Christian professions, there is something unaccountable, not to say abhorrent, in the idea, that British statesmen should have been the chief supporters of a system, which is virtually a continuance of the piratical doings of the early navigators, in seizing, burning, and destroying the property of unoffending individuals, and of making prisoners of seamen and passengers. It may be insisted that the state of permanent peace is impossible, and that wars are inevitable, or that they may be expedient. Be that as it may, it will not be denied that the tendency of modern civilisation is to mitigate the calamities of war. For instance, in the recent wars of Europe, a growing disposition has manifested itself to abstain as far as possible from the infliction of unnecessary injury upon the property of non-combatants upon land. Instances of this kind were afforded during the Crimean war, and throughout

the subsequent hostilities in Italy; and it cannot be questioned that such a course is in strict accordance with the dictates of humanity.

In the year 1859 the Manchester Chamber of Commerce addressed a letter to Earl Russell, urging Her Majesty's Government to avail themselves of the opportunity afforded by the European congress then expected to assemble, to obtain the concurrence of the plenipotentiaries to the exemption of private property on the high seas, in time of war, from seizure or destruction, and thus to reconcile the practice at sea to that which to a considerable extent had been adopted with reference to property under similar circumstances on land.

The recent proceedings of the Confederate States of America, by means of Government armed vessels, afford an illustration of the devastating power that may be, and has already been, brought into action, without any infringement of the International Maritime Law, as determined at the Paris conference. By the agency of a few ships of war—and the number of them appears ridiculously small—the mercantile marine of the Federal States has been all but paralysed; and such has been the acknowledged dread of their power that shipping of the value of nearly £20,000,000 sterling is said to have been rendered almost valueless in the hands of American owners. The destruction of the private property of Federals at sea must have been almost incalculable; but it does not appear that the infliction of pecuniary loss on the individuals concerned has led to any popular outcry for the termination of the war. It would be a mistake to suppose that the American people have not felt the smart of this havoc and the loss of private property, and the following extract may indicate the state of feeling entertained against this country by reason of our having, as they insist, aided the power of the Confederates by the supply of ships of war:—*New York Evening Post*, August, 1864: "The British Neutral Service again.—The ship 'Tallahassee,'" which the writer describes as a London ship under the rebel flag, "has appeared on our coast and captured the following American ships [the names of which are given]. We hope the merchants and shipowners of Great Britain will keep their temper when, the next time their Government goes to war with any European nation, they find their ships captured by neutral American steamers. They must prepare themselves to take such losses pleasantly, for they are making the law of the seas. 'Britannia rules the waves:' some of her rulings will make her subjects feel very unpleasantly some day."

It will be apparent that this question is one of the utmost importance to this country, by reason of the dependence of our population upon foreign products. Those who are most conversant with the subject have estimated that nearly one-half of the food we consume is received from abroad, and that the raw material which furnishes employment for one-half of our manufacturing operatives is also foreign. Hence, in case of our being engaged in foreign war, the number of cargoes of foreign food which would reach our shores in

despite of ships of war would be loaded with heavy rates of freight and insurance, besides being diminished in quantity, and therefore rendered more scarce and dear. In like manner the absence of an adequate supply and the consequent dearness of the raw material of our manufactures, would render the case of our producers utterly hopeless; the manufacturer would no longer be able to sustain, as he now does, the severity of competition in the markets of the world, and the loss of employment and consequent distress of our operative class would indeed be frightful to contemplate. These are amongst the unmistakeable dangers to which British interests are exposed by the existing maritime code; dangers which no one can fail to foresee would be fatally realised, and which the experience of the Federal States has shown that our own navy would, under similar circumstances, be utterly unable to provide against.

A weighty sense of the importance of this subject induced the Directors of the Manchester Chamber of Commerce to convene a special meeting of the members in October, 1862, which was attended by a deputation from the Liverpool Chamber of Commerce, who took the warmest interest in the question, and joined in the unanimous vote of approval of the proceedings. Mr. Cobden, M.P., was also present. He pointed out very forcibly in what manner the proposal to exempt private property from capture at sea involved the question of commercial blockades, and showed that on the breaking out of the war in Italy, in 1859, the American Government had sent to all their representatives in Europe a despatch on the subject of International Maritime Law, in which, for the first time, they broached, in a practical form, to the European Governments the idea of abolishing altogether the system of commercial blockades. He showed, that had the English Government—followed, as it would have been, by other governments of Europe—accepted cordially and eagerly, as it was our interest to have accepted it, the proposal or suggestion of the American Government, it would have been possible to avoid all the suffering which the blockade had inflicted on Lancashire; and a trade, so far as cotton was concerned, would have been free between Liverpool and New Orleans. It should always be borne in mind, that the system of warfare from which we are now suffering so severely, is one that we are the chief means of maintaining, in opposition, it is believed, to the opinion of the whole mercantile and indeed civilised world.

Mr. Cobden then asked, "With what country could it be advantageous to England to maintain the system of commercial blockade, supposing we were at war with that country?" There are only three maritime nations with which England could possibly have a war of serious dimensions, viz., France, Russia, and the United States. Take France by way of example. The merchandise which now goes to Marseilles, Havre, and other ports, could find its way to the interior of France by railway through various other parts of Europe. Thus, the locomotive and the rail have deprived the blockade of its force as an instrument of warfare. The same means

of communication with Russia will be shown to have been already resorted to with complete success.

During our recent war with Russia, it may be shown how ridiculous was the pretence of our blockade of the port of Cronstadt. The effect was to divert the traffic through Prussia, and in this way we obtained as much as three-fourths of the extent of our usual supplies of tallow, and the fact will not be overlooked, that our own commerce had to sustain the additional cost of its transit. Indeed, our imports through Prussian ports, of Russian hemp and other products, were so large that interested parties in this country remonstrated with the Government, stating in effect, "that if you do not enforce some test of origin, you had better abolish the system of blockade altogether." On the other hand, the Government received from the Chamber of Commerce of Dundee, a memorial stating that the district of Forfar, around Dundee, could not exist without the raw material of Russian hemp, and therefore they desired that no impediment should be thrown in the way of its importation. The result was that nothing was done.

In the exercise of the power of blockade, as a means of prosecuting war, it would appear that the action need not be summary, but may be delayed at discretion. It was in the month of March. 1854, that the Crimean war was declared. At that time both France and England were suffering from deficient harvests, and in France there was a dearth of food. It would have been inconvenient to France and England to have had instant recourse to the power of blockading the southern ports of Russia; and the blockade of the commercial ports of the Black Sea and the Sea of Azoff was delayed a twelvemonth—till March, 1855. Thus were these ports purposely left open for one year, for the purpose of getting grain from them, and whilst we were carrying on the destructive operations of the siege of Sebastopol, we were obtaining more than half a million of quarters of Russian corn. It may appear needless to offer the remark that if we were at war with the United States we should, of course, not proceed to blockade their Southern ports and prevent their cotton from coming into Lancashire.

It follows, then, logically, from what has been said on this subject, that in upholding the system of commercial blockades we are reserving to ourselves a weapon of war which we should not be disposed to use, or if we did, it would in its recoil inflict greater injury on ourselves than our enemy; but, at the same time, we concede to all other belligerents the same right of blockade, which may, as in the present case in America, be enforced to our serious injury as neutrals. An eminent modern authority has observed that the doctrines of Vattel, Grotius, and other ancient writers, may have been suited to an era of war, but are unsuited to govern our international relations in an epoch of peace; and that these, like the medical doctrines of Galen, have ceased to be in harmony with the feelings of the present time.

The policy which I would humbly venture to recommend, as the

most conducive to our own welfare as a nation, and most in harmony with the interests of civilisation and humanity, is that peaceful commerce on the ocean should be, as far as possible, exempt from all violence or interruption during war. I would assimilate the practice on water to that which is now the recognised rule of conduct among civilised states in their military operations by land; for, whatever may be alleged to the contrary respecting the practice in exceptional cases, it will be admitted that armies in an enemy's country no longer resort to the systematic interruption of trade, and the indiscriminate seizure of private property as legitimate prize of war. The rule of warfare which consigns all the private property of belligerents to capture or destruction is now confined to the ocean; and it is difficult to account for the distinction between property afloat and on shore, except on the supposition that it is a traditional barbarism inherited from those days when foreign commerce partook of the character of successful violence, and all maritime adventure was associated with ideas of lawlessness and insecurity.

Time will permit only the briefest possible reference to the arguments which have been offered in opposition to the views which it is my object to propound. It has been contended that, by our numerous and powerful navy, British commerce would be effectually protected from aggression during war. But it must not be forgotten that the mercantile marine which our navy would be called on to protect, surpasses, in extent and value, that of other nations, quite as much as our ships of war outnumber those of foreign powers. Besides, it should be borne in mind that, under the free-trade regime, the injury to be inflicted on our shipping will not depend, as in former wars, on the number of ships actually taken, but on the amount of tonnage driven out of employment through its inability to sustain a competition, with enhanced rates of insurance, against foreign rivals sailing under neutral flags. The losses which two or three Confederate cruisers have inflicted on the mercantile marine of the United States are not so much to be measured by the value of the shipping captured or destroyed, as by the extent to which its entire tonnage has suffered in value from the competition of England and other maritime neutrals.

Again, it has been contended, by those who think that England has a special interest in maintaining the existing code of international law, that she could by means of her powerful navy blockade the ports of any power with which she might be at war, and thus prevent the issuing forth of armed vessels to prey on her commerce. Unfortunately, the precedent recently established by ourselves, in the case of the "Alabama," "Georgia," and other vessels, has shown that, to insure ourselves against molestation at sea, nothing short of blockading the ports of neutrals as well as of our enemy would be effectual. The right of a belligerent to procure ships of war from all parts of the world, and to employ them in destroying an enemy's commerce, even when his own ports are blockaded, was laid down in terms of unwonted emphasis and startling clearness, by Sir Roundell Palmer,

in the House of Commons, on May 13 last :—"To say that a country whose ports are blockaded," said the Attorney-General, "is not at liberty to avail herself of the resources which are at her command in other parts of the world, that she may not buy ships in neutral territory and commission them as ships of war, without bringing them to her own country first, is a doctrine which is quite preposterous, and all the arguments founded on such a doctrine only tend to throw dust in men's eyes and to mislead them."

What the practical effect will be of the application of this doctrine —of which we may rest assured foreign governments have taken a note—to ourselves, has been stated in a memorial from the principal shipowners of Liverpool to the Government, and of which the following is an extract :—"That the experience of late events has proved to the conviction of your memorialists that the possession by a belligerent of swift steam cruisers, under no necessity, actual or conventional, to visit the possibly blockaded home ports of that belligerent, but able to obtain all requisite supplies from neutrals, will become a weapon of offence against which no preponderance of naval strength can effectually guard, and the severity of which will be felt in the ratio of the shipping and mercantile wealth of the nation against whose mercantile marine the efforts of those steam cruisers may be directed. That the effect of future war with any power thus enabled to purchase, prepare, and refit vessels of war in neutral ports will inevitably be to transfer to neutral flags that portion of the sea-carrying trade of the world which is now enjoyed by your memorialists and by other British shipowners."

It gives additional weight to this warning against a prospective danger, when we consider that it is uttered by a body of men whose present interests are greatly promoted by the losses to which the shipowners of America have been subjected. They are, however, sufficiently sagacious to see in this very fact the strongest justification of their apprehensions ; for if by furnishing two or three British-built cruisers to the Confederates, we have transferred a large part of the profits of the carrying trade of the United States to our own shipowners, how much greater would be the gain to the American flag, if, when we are at war with a weak maritime power, the shipbuilders of New York or Boston, should furnish "Alabamas" and "Georgias" to our enemy? Nor do these sagacious capitalists allow themselves to be deluded with the idea, which has been put forward by the defenders of the present system, that the Declaration of Paris against privateering will prove any safeguard to their interests. When read by the light of recent events, that Declaration seems to merit the epithet of a "stupendous hoax," which was recently applied to it in a debate in the House of Commons. It has been decided, by both French and English authorities, that the Confederate cruisers, including even the "Georgia," which was originally employed as a merchant vessel, are all entitled to the privileges of regular Government ships of war, because they carry a document called a "Commission," instead of one bearing the designation of a "Letter of

Marque." What difference there may be in the size or form of those two instruments is hardly worth an inquiry: it is sufficient to know that they both proceed from precisely the same source, and authorise their bearers to perform precisely the same acts.

It remains only to add a word or two on the argument which has been put forth, that it is desirable in the interest of peace that wars should be accompanied with a grievous destruction of property. Were we discussing the bearings of the present international maritime code on the interests of the world at large, this argument might be entertained; but as we are considering its effects on British interests only, it can hardly be contended, in an assembly of Englishmen, that it is for our advantage that wars should be made exclusively injurious to us. There is one view of the subject, however, on which we shall all be agreed,—that it is desirable the British public should be fully aware of the injurious consequences to our commerce which must accompany any war in which we may henceforth be engaged, in order that we may duly estimate those sacrifices before entering on diplomatic negotiations, or treaty engagements, which may involve us in the risk of hostilities. We witnessed very exciting discussions, extending over the greater part of the last parliamentary session, upon the Dano-German question, and much vague apprehension was felt, lest we might be involved in that complicated quarrel. But when at last it came to the simple issue of peace or war, the consideration of our vast material interests, and of the security of our commerce, weighed most heavily in the scale of peace, and towards the close of the discussion, Lord Russell declared in his speech on June 27 last, that "we should suffer, perhaps considerably, if our commercial marine was exposed to depredations such as might take place in the event of our being at war with Germany."

I will conclude with the expression of a conviction that, if the present system of maritime international law is maintained, it must involve a complete revolution in our foreign policy, necessitating our adoption of the principle of non-intervention in the quarrels of other nations, and the avoidance of all grounds of serious controversy with foreign governments on such topics as the balance of power, or dynastic successions, or any other questions which do not directly concern the interests and honour of our own people.

The Constitutional Relations of British Colonies to the Mother Country. *By* James Busby.

The constitutional relations of British colonies to the mother country is a subject of great national importance: and one to do justice to which would require voluminous details of facts and references to authorities. The time to which I am restricted by the rules of the Association has rendered this impossible, and has compelled me to compress within a very small compass such a notice of

the most important bearings of the subject as has seemed to me be calculated to draw to it the attention of publicists and statesmen for it appears to me that, in the present crisis of colonial affair no less grave a question is involved than, whether the integrity the British empire is to be maintained, or whether its distan dominions are to be cast off and separated from the main bod The latter alternative has of late been discussed with some earnes ness, but it is to be hoped has found little favour. The instin of self-preservation revolts at such a confession of weakness could scarcely fail to excite the aggression of rival nations, or th turbulence of domestic faction. Nor is it less repugnant to th sentiment of national glory which aspires to higher objects than th requirements of trade, or a balance sheet of profit and loss—th glory of maintaining for each member of the empire, even th humblest and most remote, the inestimable privileges of Britis citizenship, and of spreading far and wide the civilisation, th freedom, the religion, which constitute the true glory of Englan But it cannot be denied that a condition of things has been brougl about in perhaps more than one British colony which may we raise the question whether, were there no other alternative, it woul be less disastrous to submit to a disruption of the empire, than maintain a nominal dominion while abandoning all effective contro even over the most flagrant abuses.

My observations have for their object to demonstrate that such alternative may be found in a return to the true principles of Briti government, by showing that mis-government is not a necessa result of distant dominion or of delegated and divided authority; b of a departure from the true principles of British administration, a a too ready concession to pretentious theories. The true principl of British administration as applied to colonial dependencies h stood the test of two centuries of colonial government, before t foundation of convict establishments in Australia had introduced new element in British colonisation, and the reaction which follow led from the necessary absence of representative institutions to t opposite extreme of democracy.

In the instructions addressed by the late Lord Glenelg to Lo Gosford and the other Commissioners to Canada, after a long pr tracted conflict had taken place between the Governor and t Assembly of Lower Canada, which, originating in hostility admitted abuses of administration, became at last a demand f organic changes in constitutional law, these principles are th adverted to:—

"The King," writes Lord Glenelg, "is most unwilling to adm as a matter of deliberation, the question whether one of the vit principles of provincial government should undergo alteratio The solemn pledges so repeatedly given for the maintenance of th system, and the just support which it derives from constitution usages and analogies are alike opposed to such innovation, a might seem to preclude the discussion of it." "It must be recollect

that the form of provincial constitution in question is no modern experiment, nor plan of government in favour of which nothing better than doubtful theory can be urged. A council nominated by the Crown, and possessing a co-ordinate right of legislation with the representatives of the people, is an invariable part of the British constitution in all the transatlantic possessions of the Crown, with the exception of those which still remain liable to the legislative authority of the King in Council. In some of those colonies it has existed for nearly two centuries. Before the recognition of the United States as an independent nation, it prevailed over every part of the British possessions in the North American continent, not comprised within the limits of colonies founded by charters of incorporation. The considerations ought, indeed, to be weighty, which should induce a departure from a system recommended by so long and successful a course of historical precedent."

The foundation of the Australian colonies towards the close of the last century, had, to all appearance, introduced a new system into the government of colonies. But when it is considered that those were not at first free settlements of British subjects, but penal establishments for the punishment of crime, it will be at once apparent that the principles of free colonisation were not applicable to them. In the course of time, however, as free settlers resorted to the Australian colonies, the despotic rule of a penitentiary gave way to a mixture of representative institutions; and in the year 1840, the British government was prepared to extend to the Australian colonies, the same representative institutions, which had stood the test of two centuries in most of the early American settlements. About the same time a very able and elaborate report had been prepared by the Board of Trade upon colonial constitutions. In that report, while it was held that the abstract excellence of the old model was unquestionable, it was nevertheless maintained that much deference was due to the opinions and wishes of the colonists themselves. And in consequence of the then existing assembly having expressed by a formal resolution their preference for a single house of legislature, it was considered expedient to frame a constitution for New South Wales in accordance with that preference, rather than with ancient constitutional precedent.

The same spirit of concession to the popular voice, or what was supposed to be the popular voice, was manifested towards Canada; and has since been acted upon, not only in the framing of constitutions supposed to be agreeable to the wishes of the colonists, but in making provision for the alteration of those constitutions, by the authority of the local assemblies. But constitutions, even when sound in their basis and upright in their organisation are of themselves but of secondary importance, compared with the spirit in which they are administered. However necessary as the framework of the body politic, constitutions at the best are but the dry bones and integuments of government, and require to be continually animated and directed by an upright spirit, in order to secure the well-being of

the community. The spirit of concession did not stop with the framework of constitutions. The report of Lord Durham on Canada, while admitting the existence of abuses sufficient to account for the hostility of the assembly, and to induce them for four successive years to refuse the supplies, assumed the necessity, not only of a redress of those abuses, but of organic changes in the system of administration, in order to its harmonious working.

It assumed as incident to the existence of a house of representatives having the control of the public purse, the necessity of conforming the measures of administration to the requirements of a majority of that house. In effect it claimed for the third branch of the legislature the functions of executive government, as well as a co-ordinate right of legislation with the governor and the legislative council, and the constitutional control of the public purse.

This pretension was set up as being in strict conformity with the working of the British constitution in the mother country. It was assumed that the governor of a colony stood in the same relation to his subordinate functionaries as the Queen to her responsible ministers, and that those subordinate functionaries stood in the same relation to the elected representatives of the colonies as the Queen's ministers to the House of Commons; and from these assumptions it was inferred that if the functionaries of the governor were unable to carry his measures through the assembly, they ought to give way to functionaries who could succeed in doing so. This assumed obligation, if not formally admitted, was at least acquiesced in by the home authorities; and the new system of administration founded upon it, which made the governor a mere tool in the hands of the leaders of the assembly, having been introduced, first into Canada, and subsequently into all colonies where it was required by the popular leaders, was called "responsible government." It was shown by Lord Brougham, in the House of Lords, that the views thus represented were alien to the true principles of the British Constitution, as well as to the practice of the British Government; and it is remarkable that there was no statesman who took any part in the discussions, in either House of Parliament, which arose out of the affairs of Canada, who did not insist upon the incompatibility of the principle involved in the recognition of such a system with a due regard to the maintenance of the public faith and the honour of the Crown; and by none was this incompatibility more insisted upon than by Lord John Russell himself, although, as Secretary of State for the Colonies, he gave way to the pressure of colonial politicians and acquiesced in its adoption.

In the latest and ablest work on colonial constitutions it is affirmed that "now self-government for colonies is amongst the most popular and fashionable theses of the day, both with those who are and with those who are not accurately informed upon the subject." "It is manifest," says Mr. Arthur Mills,* "that the local administrators of a

* "Colonial Constitutions," by Arthur Mills, Esq., of the Inner Temple.

system so critically devised must be subjected to the perplexing and ever recurring conflict of an inconsistent allegiance to two masters, the Colonial Assembly and the Sovereign of England. But nevertheless, 'responsible government' must be regarded as an accomplished fact, a system, the success or failure of which must depend mainly on the tact and talent of the Queen's representative."

But the truth is, that what is called the "success" of the system depends less upon the tact or talent of the Queen's representative than upon the facility with which he is disposed to ignore the obligations of his commission, and to become the mouthpiece of whatsoever persons may acquire the lead in the assembly. The truth that no man can serve two masters is universal in its application to governors as well as to private men.

The system called "self government" or "responsible government" in colonies, has also been designated by various other terms, such as "constitutional government," "parliamentary government," "representative government," and "party government," each of these terms involving its own peculiar ambiguity. When an identity of position is assumed as existing between the governor of a colony and the Queen of England, it seems to be forgotten that by the law of the British Constitution the king or reigning queen of England can do no wrong; no public act of the sovereign being of any legal validity unless the instrument by which it is attested is countersigned by a minister of state, whom the law makes responsible. And that consequently the analogy fails in its most important particular, because a colonial governor is not only subject to legal penalties should he exceed his lawful authority, but answerable to the Government and Parliament of England for the manner in which he has executed his commission, and carried out the instructions which are framed for his guidance in conformity with the constitution of the colony which he is appointed to govern. Nor is there more analogy between a colonial assembly, with its subordinate and restricted powers of legislation, and the Parliament of England with its original jurisdiction and supreme authority, than between a colonial governor and his subordinate functionaries, and the Queen of England and her ministers of state.

It is evident therefore that the pretensions put forth in support of the system of administration in the colonies called "responsible government," on the ground of its analogy to the system of British government in England, are altogether unfounded. They do not rest upon any basis of truth or of sound reason. Moreover it may well be questioned whether the idea of responsibility to the vote of a majority is not as unphilosophical in the conception, as it has proved absurd in the issue when votes were equally balanced,—as, for instance, in the two last changes of ministry in New Zealand, which were accomplished in one case by a majority of one vote, and in the other case by the casting vote of the speaker.

The pretentious assumption of the designation "responsible government" in favour of such a system, implied that under the old system

of colonial government there was no responsibility. But it only requires a little investigation into the facts of the case to make it apparent that the real responsibility for good government was as truly and altogether on the side of the former system, as it is wanting in the system which has replaced it.

In the legitimate sense of the word, responsibility implies the existence of a sentiment of duty, as well as of a certain ascertained or ascertainable standard to which it can be referred: to the enactments, for instance, of a law; to the commands of a superior; or in the highest sense to the revealed will of God, and of that conscience of right and wrong which He has implanted in the hearts of His rational creatures.

When an officer of rank and reputation was appointed by the Crown to govern a colony, he was responsible in all these senses. He had the law and his instructions for his guide. It was due to the rank and reputation he had acquired that he should exert himself to do justice to the qualifications by which he had acquired that rank and reputation: that he should govern lawfully and well in the eyes of the authorities which appointed him, as well as in the eyes of the British public and Parliament. Measured by so high a standard the rule of duty and conscience was his safest guide; and not only so, but self-interest, honour, and ambition, alike prompted him to adhere to the oldest and most authoritative of all maxims of administration, "He that ruleth men must be just, ruling in the fear of God." But it is far otherwise with those whose tenure of office rests not upon the fulfilment of a duty, but upon the vote of a majority—of those who can only retain their position by consulting and ministering to the ever varying but ever selfish interests of the clique of colonial politicians by whose votes they acquired office and must be retained in it. If there could have been any difficulty in determining such a question in the abstract, that difficulty is removed by the experience of twenty years; affording ample evidence that the concentration of the powers of government in the democratic branch of the constitution, and the abeyance of the constitutional checks which form the true excellence of British institutions, lead to a trade in the offices and transactions of government, which is sure sooner or later to be monopolised by the least scrupulous traders, and made disastrous to the colonists as well as disgraceful to the mother country. There is not one of the colonies in which the system called "responsible government" has been established that does not afford evidence of this; and of the monstrous sacrifices of the public interests which have resulted from it.

But it is not only that what is called self-government by such a system, in colonies, is incompatible with the welfare of the community—the true object of government. It results from the very nature of sovereignty that self-government in any province of an empire, unless that term is applicable to the regulation of subordinate matters, is incompatible with its obligations and duties. Sovereignty being inalienable, there can be, from the nature of the case, only one

sovereign authority under one dominion. If there be a delegation of authority and jurisdiction, it still belongs to the sovereign power and is incumbent upon it to maintain and control the exercise of that authority and jurisdiction, in conformity with the conditions of its delegation. Nor is there any alternative between this exercise of sovereignty and its total renunciation. But further, it is not only inconsistent with the nature and with the obligations and duties of sovereignty that there should be self-government in a province, the same condition, in regard to British administration, results from the fundamental laws of the British empire which extend to every colony of British settlement, and form the safeguard of British subjects as well at the antipodes as in the streets of London. Every colonial constitution is framed in subordination to this fundamental principle of inalienable sovereignty. The power of making laws is defined and limited in conformity with it. In most colonial constitutions there is an express proviso that the laws made by colonial assemblies, which are created subject to their provisions, shall not be repugnant to the law of England. But in cases where no such proviso exists, the courts of superior jurisdiction will hold invalid, as being *ultra vires* of a subordinate legislature, any enactments which conflict with fundamental law. Then again with regard to administrative authority, it will be found, on an examination of the commissions and instructions of our colonial governors, that the same principles are maintained throughout those documents. No jurisdiction is acknowledged which does not proceed from the Crown; and not only are the powers to be delegated by the Crown defined by Act of Parliament, but in most cases the very form of delegation is specified; and thus that ultimate and absolute sovereignty, which by the British Constitution resides in the three estates of Parliament, is made to pervade every department of government in the colonies, as well as in the mother country, and in matters of administration as well as in matters of legislation. These are not mere matters of speculation, but statements of facts which are incontrovertible, and which it would be easy to prove by reference to the highest authorities if time would allow. It is hoped that the present exposition of them cannot be considered as otherwise than well-timed when it is remembered how entirely they were overlooked or ignored in the late debates on New Zealand, even by members of Parliament who had themselves been cabinet ministers. It was in that debate almost universally assumed that there existed in New Zealand a "local government," responsible—not to the sovereign power—but to the local legislature. It was made a matter of grievous complaint that the power of this so-called local government extended even to the control of the national forces. Nor is this so much to be wondered at, when the language used in some public despatches is considered. In one it is stated that what is called responsible government is "unequivocally established"* in those colonies which have adopted it. In another

* The Duke of Newcastle to Sir Henry Barkly.

the following words are used: "That it will be impossible for Her Majesty's Government to authorise the governor of New Zealand to employ Her Majesty's troops in suppressing native disturbances, unless he shall have been thoroughly conversant with, and personally consenting to every measure of the local government which in its operation may have unfortunately led to the necessity of so employing them;" * thus promulgating the strange doctrine that the peaceable subjects of the Queen are not entitled to protection if they should be brought into danger through no fault of their own, but by the usurpation of illegal power on the part of subordinate functionaries, whose duty and oath of office require them to be obedient to the Queen's governor, and not to usurp authority over, or independently of, him.

The more this subject is investigated the more clearly it will appear that no such local government can have any legal existence; that the men who call themselves "responsible ministers" have no authority whatever but what they derive from the governor, and for the exercise of which they are accountable to him,—an authority which, whatever it may be, he has at any time full power to revoke and annul. It will also appear that, as the governor cannot lawfully delegate to his subordinate functionaries the trust vested in him by the Queen's commission, the assumption of any such power as is implied in the existence of a local government responsible to the local assembly, is not only an usurpation on the part of those who assume it, but a dereliction of duty on the part of the governor who permits it.

As the time has permitted of an outline only of the subject I proposed to illustrate, I beg to submit a series of propositions, to the full discussion and determination of which it appears to me at this time to be impossible to attach too much importance.

First: That it has become necessary to revise the whole system of British colonial administration.

Second: That there is no middle course between the total renunciation of sovereignty over the colonies, and the discharge of the duties which are inseparable from the maintenance of sovereignty.

Third: That in British administration the duties of sovereignty are incompatible with the delegation to any subordinate authority, of such a jurisdiction as might deprive a British subject of his common law and statutory rights of protection, in the enjoyment of life, liberty, and property; and that therefore to whatever extent the regulation of strictly local affairs may be conceded to colonial authorities, it is necessary that the sovereign power should maintain in all colonies of British settlement those fundamental laws of the empire which limit the powers of the executive government, and define the rights of the subject.

Fourth: That as the rights and obligations of sovereign and subject are reciprocal, if in the case of any colony the Imperial Parliament should determine to relinquish for itself the rights and

* The Duke of Newcastle to Sir George Grey. June 5th, 1861.

duties of sovereignty, it has no right to transfer the allegiance of the subject to any political leaders who may, for the time being, have been permitted through its instrumentality to assume the direction of affairs in that colony.

Fifth: That it is a fallacy to assume that the wishes and much less the interests of colonists are represented by the prominent political leaders of the day, and that colonial constitutions which have been framed upon the suggestion of such leaders, are to be considered of such a character that any revocation or alteration of them should be considered an infringement of political rights; political franchises, as conceded to colonists, not being of the nature of individual or vested rights which cannot be annulled, but of the nature of a trust for the benefit of the community, which the sovereign power is not only entitled but bound to revoke, when it has failed to accomplish that object, and has become a cause of injury to the community which it was intended to serve.

Sixth: That before the British Government would be warranted in departing from the principles of British administration according to ancient precedent, in framing or maintaining any colonial constitution on the ground that it is in accordance with the wishes of the colonists, the colonists are entitled to have their wishes ascertained by a convention for the express purpose of considering the question.

Seventh: That in framing colonial constitutions it ought to be borne in mind that colonies are not to be regarded in the light of a platform or theatre for the display of statesmanship, and for enabling the leading men to make experiments in government; but as bodies of British citizens who are entitled by their birthright to be well and economically governed, according to the principles of the British Constitution, having the same legal rights as their fellow citizens at home.

Eighth: That it is a fallacy to assume that there will be found in colonies, as in England, a class of statesmen sufficiently above the influence of sordid motives to take the management of public affairs from public spirit and patriotic motives alone; or that men, who, by securing the votes of the majority of a colonial legislature, can obtain the handling of the colonial revenue, and the dispensing of the patronage of office, in addition to the distinction which it confers, will scruple at any sacrifice of the public interests which may be necessary to secure those objects.

Ninth: That the best and all-sufficient guarantee for faithful administration in the colonies is to be found in the constitutional control of the public revenues by the elected representatives of the colonists; and that the inducement to bring about a collision between the representatives of the colonists and the representatives of the Crown would in the greatest measure cease to exist if the tenure of subordinate office in the colonies were made to depend, as formerly, upon good behaviour, and not upon the command of votes.

Tenth: That the mother country having long ceased to monopolise the trade of the colonies, having opened their ports to foreign ships,

and allowed their ships to trade to foreign ports; having relinquished the patronage of colonial office as a means of Parliamentary or family interest, and having left the colonists without the shadow of a complaint of undue interference with their local affairs, it is scarcely conceivable that a case of such gravity could arise, as that the community would justify the legislature in stopping the public works and starving the servants of the public by withholding the supplies. But that, even should such an extreme measure be brought about by a factious opposition, it could not seriously embarrass the essential functions of government, so long as provision is made by a civil list for the indispensable offices of government and the administration of justice.

CONDITION OF THE WORKING CLASSES.

The Cotton Famine. By R. Arthur Arnold.

THIS use of the word famine cannot fail to remind us how peculiarly vulnerable we were in respect of our cotton supply, for in 1860, the halcyon year of the cotton trade, we were dependent upon the Southern States of America for 80 per cent. of our imports. The events which have cut off this supply, and have since developed one of the most sanguinary chapters of the world's history, are not precisely within the domain of this Association. The distress which they precipitated and occasioned in our cotton manufacturing districts was intensified by the circumstance that this manufacture is the special, I might almost say the only, industry of the adjoining county of Lancaster.

Natural and economic causes localised the cotton manufacture in and around Lancashire, and gathered a population with unexampled rapidity. What America has been to Europe, Lancashire has been to England; the great drain for surplus population. For nearly a century she has been offering to the working classes such reward for their labour as it was impossible to obtain elsewhere. For years and years she has wanted hands as she has lately wanted cotton, and her demand was not made in vain. Nowhere else, upon an equal area, has population obeyed the summons of capital to an equal extent, or with equal fecundity. From all sides numbers have flocked to share the profits of the cotton manufacture, and in 1861 the population of Lancashire included more than 26 per cent. who had been born elsewhere.

The natural increase of the people has been no less remarkable. In the same year, the population of Lancashire amounted to 12 per cent., while the births in that county were 13½ per cent., of those of England and Wales. As might be expected where labour is in such

great demand, juvenile marriages are more common than in any other of the English counties. The census returns of 1861 show that among the population of Bolton, 45 husbands and 172 wives were coupled at the immature age of "15 and under;" in Burnley there were 51 husbands and 147 wives, in Stockport 59 husbands and 179 wives in the same category. But during the famine the marriage-rate plainly told the presence of distress. The return for the Christmas quarter of 1862, compared with that of the corresponding period of 1860, showed that the number of marriages in Ashton had fallen from 342 to 245; in Bolton, from 344 to 249; in Blackburn, from 412 to 181; in Rochdale, from 237 to 166; and in Stockport, from 332 to 198.

The operation of the Factory Laws is most salutary, limiting and regulating the hours of labour for men, women,and children. In speaking of the operatives, whose conduct during this crisis needs no eulogy from me, it is, I think, no libel on the working classes in the mass to say that, in respect of natural acuteness, the cotton-workers are their superiors. But this intellectual superiority is owing to the character of their labour, and not to any peculiarity of race. It is well known that we cannot use the muscles and the brain very actively at one and the same time. In the village coterie it is the sedentary shoemaker, or the stitching tailor, who is the politician or the poet. The work of a cotton factory is exciting, but not laborious. It quickens the eye and the action of the brain to watch a hundred threads, being obliged to dart upon and repair any that break, lest even a single spindle should be idle, and it strengthens the brain to do this with bodily labour, which is exercising but not exhausting. The labour is not unhealthy. With personal cleanliness, temperate habits, and a well-drained house, all especially necessary to him, the operative has a far better chance of a long life and a merry one, than the agricultural labourer.

Passing on from the workers to their works, we find that there were in Great Britain, in 1860, some 2,650 cotton factories, employing a population of about 440,000 persons, of whom 90 per cent. were adults, and 56 per cent. females. A power equal to that of 300,000 horses, of which 18,500 was water-power, drove the machinery which these quick eyes and active fingers guided and governed. Among other offices performed by this giant force was the twirling of more than thirty million spindles, at rates varying from 4,000 to 6,000 revolutions per minute. Each of these spindles could consume 9½ oz. of cotton wool per week; their required food for the year, therefore, exceeded 1,050,000,000 pounds of cotton. The actual consumption for the year, inclusive of waste, amounted to 1,083,000,000 pounds, and the total quantity imported to 1,390,000,000 pounds. Three hundred and fifty thousand power-looms threw their shuttles with unerring regularity, impelled by the strength of these steam and water horses, and besides supplying the household requirements of this kingdom, which in the article of cotton manufactures then amounted to £24,000,000 in annual value,

and 180,000,000 lbs. in weight —this population, these spindles, and these looms, being paid, established, supported and provisioned by manufacturers possessed of fixed capital to the amount of £65,000,000, produced for exportation more than 2,776,000,000 yards of cotton cloth, besides 197,000,000 lbs. of cotton twist and yarn. In addition to this they manufactured and exported hosiery and small wares valued at £1,800,000, and the total declared value of the cotton exports for the year exceeded £52,000,000 sterling. The productions of the British cotton manufacture for 1860, exceeded £76,000,000 in value, or nearly £6,000,000 more than the gross revenue of the kingdom for the same period, and of this stupendous trade Lancashire engrossed nearly 75 per cent.

The charitable agency, established for the relief of distress, which at one time included 170 committees, must always excite admiration by its magnitude and efficiency, nor can it be doubted, if any similar calamity should ever afflict the county, that no better mode of encountering distress could be devised. These committees were beneficially centralised in the executive committee of Manchester, a body deserving very high honours in this well conducted campaign. The boards of guardians too, have done themselves honour by their zeal and consideration, their great and gratuitous labours during this crisis. With reference to the successful operation of the Poor Law, during the period of the cotton famine, I would only make two observations; first, that previous to the passing of the Public Works Act, the main difficulty in carrying out the existing law was found in the provision of suitable labour for the able-bodied, and secondly, that the most obvious legislative lesson of the crisis is favourable to the equalisation of rating, and the extension of irremovability over larger areas. The acceptance of educational exercises, and of feminine work in sewing schools, as a fulfilment of the labour requirement, was productive of great good during the period of the famine. The authority and experience of the Central Executive Committee, sanction the opinion that 2*s*. per head is the highest rate of relief which can be given consistently with due regard to the rights of labour, and upon this principle, they, and other committees have dispensed about £2,000,000 with great discrimination and success. At the crisis of the distress, nearly 500,000 persons were relieved by the committees and the board of guardians at a weekly cost of upwards of £60,000. Of course, imposture disguised in every form found its place and its reward, but owing to the ubiquitous organisation of the local committees, fraudulent imposition was next to impossible in small places, where the relieving officer, or some member of the local committee was personally acquainted with every applicant. But in great centres of population, where all cannot be known, the administrators of relief will always find their duties to include surveillance as well as sympathy. The system of inspection must be especially minute in such localities, which should in the first place be subdivided into districts, sufficiently small to insure facility of observation.

The conventional idea of a famine must be laid aside, by those who would understand the recent position of the operatives in Lancashire. The word itself conjures up such sad pictures as those with which the potato famine of Ireland once made every one familiar. Suffering there was, sad and enduring, but not such as this. Many were the sacrifices made in the homes of the poor. The pawnbrokers' stores were glutted with the heirlooms of many an honest family. Little hoards were drained to meet the exigencies of the time. Many found it the sorest trial of their lives to ask for food, and it is a happy circumstance for all to remember, as it is honourable to those of whom it is recorded, that none suffered more severely than those who had a struggle to overcome their unwillingness to subsist upon food which they had not earned. Rents fell in arrear, and many a house which had held but one home, was occupied by three or four families, in order to economise rent, fuel, and furniture. Those excursions, which in good times are made with such gusto and with such frequency by the operatives,—these, their most cherished pleasures, were, of course, abandoned. Less to be regretted was the decrease in the consumption of spirits, which in 1862, was less in Manchester by 16 per cent., and in Bolton by 29 per cent., than in 1861.

Great progress has been made in education during the period of the cotton famine. Generally the number of children in attendance at the schools increased, and the concurrent testimony from all sides is that they were more regular in their attendance, and made better progress than in previous years. I ought not to omit to notice the magnificent extent of the Sunday schools, though this belongs to the 2nd Department. But in speaking of the social condition of the cotton districts, I could not be content to pass unnoticed the spread of co-operation among the working classes in that part of the kingdom. There are now but few townships without a co-operation store, and all, or nearly all, are modelled upon the pattern of that patriarch of such associations, the successful and well established society known as the Equitable Pioneers of Rochdale, which has not only withstood the shock of the famine, but has largely contributed to the support of its members during the crisis.

I regret that I have only time to touch upon two more subjects connected with the social condition of the cotton districts, and these must be emigration and public works. Considering the intentions with which the relief funds were collected and the purposes to which they were pledged, it cannot be thought that the committees failed in their duty because they gave little or no encouragement to emigration. To make any material and visible reduction in the numbers subsisting on relief, it would have been necessary to provide for the emigration of at least fifty thousand persons, which would have been less than one-eighth of the whole number at one time dependent upon the guardians and the relief committees. But the cost of the conveyance of this number to Australia cannot be estimated at less than £750,000, and it is hardly too much to assume that no such sum

could have been raised for such a purpose, when more than £1,500,000 had already been subscribed for relief. Granting, even, that these fifty thousand all became happy and prosperous emigrants, then the condition of the cotton districts would not have been less critical. The distress would have been precisely the same in degree, though lessened to the extent of one-eighth. The rate of relief would not have been raised, for it was already as high as a due regard to the rights of labour would permit. Regarding both the present and the uture, it would have been an improvident and impolitic act on he part of the nation, and one of doubtful humanity on that of its promoters.

The results of patronised emigration very rarely represent the population. Under such auspices it will generally be found that either the best are taken, to the undue injury of the older community, or the worst, to the lasting degradation of the rising colony. It is scarcely humane to offer a distressed dependent on charity in England a free passage to a distant colony, without knowing beforehand that he will find the means of subsistence. How can he restrain himself from snatching at the promise of regained independence, which relieves him for the time of the burden of self-maintenance? But a man can only eat dirt in a metaphorical sense, and a landowner in a new colony may suffer far greater want than an English pauper. Indeed, many errors with reference to colonisation arise from the contrast which in this respect is presented between the mother-country and her possessions. From the conditions attaching to land in this kingdom, an Englishman is likely to place an entirely fictitious value upon its possession. The emigrant upon arriving in the colonies can claim his grant of land, in some without purchase-money, in others by a nominal payment. What a marvellous attraction there is in this announcement for the people of an old country, where every rood of land has its vigilant owner, and is swathed in legal parchments!

It was thought by some that the condition of the cotton districts peculiarly suggested the promotion of female emigration. Large as he excess of females was in the population of England and Wales at he census of 1861 it was larger still in that of Lancashire. With eference to the married women, there can be no doubt that the essened death rate of the cotton districts during the famine was much owing to their exemption from factory labour, and consequent freedom to attend to their children. But the better class of factory girls would not make willing emigrants. And why, indeed, should they? It would be difficult to find a home where women have greater advantages than in Lancashire. Of the factory labour 56 per cent. is female. They can earn independent and sufficient wages if they choose to lead a single life, and the matrimonial market is nowhere more active if they prefer wedlock. Experience of former bad times concurred with their own wish in telling them that all this prosperity would soon return, and the mills be reopened; and it is quite certain that until then the great majority of them would

have given preference to "the relief" over the snuggest emigrant vessel that ever was docked.

I must trespass on your patience with a very brief reference to the Public Works Act. In the spring of 1863 there were some 45,000 men and lads out of work in the cotton districts. That this should be the case could not but be a subject of anxiety to the Government as well as to those committees which were locally engaged in relieving the distress. It was evident that no extensive and simultaneous execution of public works would take place unless all local authorities were empowered to borrow, and could obtain the necessary funds at a low rate of interest from the State. But there has always existed a well-founded objection on the part of Parliament to make such advances, and the experience of the Irish Famine Loans gave more warning than encouragement. However, in April of that year, Mr. Villiers instituted an inquiry as to what works of sanitary improvement and permanent utility would be undertaken by the local authorities if they were empowered to borrow the cost of these works from the State at a moderate rate of interest. And as you are all aware, my distinguished friend and leader, Mr. Rawlinson, was entrusted with this inquiry. It was soon discovered in Lancashire that he was the right man in the right place, and the development of the measure rapidly progressed. The great success which has attended the operation of this Act is consequent upon the fidelity of its principles to those of English government. It helped the people of Lancashire to help themselves, at least it gave them an opportunity of doing so. It was not an eleemosynary measure. The one million and three quarters which will be expended in these public works has not and will not cost the nation a sixpence. On the contrary, this money will all be expended in the permanent improvement of the national freehold; and it will be repaid to the national treasury with a rate of interest high enough to cover all expenses. I can bear witness to the fact that so far the expenditure of this money has been most blameless and economical—that not a shilling has been wilfully expended in unproductive labour. I can testify also to the absence of jobbery in connection with these public works, to the liberality of the landowners in giving the land required for permanent improvement, to the zeal and intelligence with which the local authorities and their officers have undertaken these public works, and to the marvellous readiness with which the operatives have adapted themselves to this new and more healthful form of labour. I am proud to have borne a very humble share of duty in this national calamity. The time is not far distant when we shall look only to the benefits derived from it—when we shall remember only the noble conduct of those who suffered—the charity of those who gave, and the examples of management and governance which it has recorded. It will have proved that England is not and cannot be dependent upon a single branch of industry—it will have repaired the insecure foundation of the cotton trade—it has evoked kindlier feelings between class and class, and forcibly taught our duty toward our neighbour.

Co-operation during the Cotton Scarcity. The Growth of the Halifax Store. By G. J. HOLYOAKE.

CO-OPERATION is the most inscrutable thing that is found amongst the working classes. Nobody can tell under what conditions it will arise. Why it flourishes where it does, and why it does not flourish where it should are alike inexplicable. Why should it succeed in Rochdale, Blaydon, and Sowerby Bridge, and never took root in Birmingham, Sheffield, or Glasgow? There is no place in Great Britain so unlikely as Sowerby Bridge to produce co-operators. There are no places so likely as London, Manchester, Liverpool, Leeds, and Sheffield. Yet, co-operators in some of these places make no more progress than a society of Naggletons. In Sheffield the socialists have tried co-operation: the methodists have tried it, the Catholics have tried it; but neither Owen, Wesley, nor the Pope, have any success in that robust town where mechanics have more advantages, independence, and means, and as much intelligence as any town in England.

Rochdale has hitherto been the Mecca of co-operation, has achieved results in co-operation of which the public have not yet heard.

The visitor who enters Halifax by way of the Town Hall, the prettiest, brightest, most cheerful building of the kind erected of late years, comes upon Northgate, the best street in the town, where he finds a stone block of buildings—lofty, extensive, and particularly well built; this is the property of the Halifax Industrial Society, and occupied by their stores. This building has been erected and stocked at an expense of £15,000. The basement consists of seven shops and offices:—a butcher's, a provision, a boot and shoe, a linen drapery, a grocery, a woollen drapery, and tailor's shop. The walls are wainscotted, because paint is cleaner than paper, and the ceiling of the flour shop is cased with wood so that no plaster may ever drop into the bins. A commodious wharf, a miniature Pickford's, is fitted up with cranes, gallery, and landing ranges where waggons are loading and unloading all day delivering goods for the store, or carrying them out to its branches. A steam engine is at work on the premises for raising goods—turning a gigantic chopping machine and grinding tons of coffee: vast underground cellars are filled with all sorts of stores. Hogsheads of sugar groan on the floors, and mountains of hams and flitches of bacon rise in the vaults. Upstairs in well fitted-up rooms are magazines of valuable goods and dainty edibles, where the aroma of coffee, the scent of tea, and the sweet fragrance of malt meet you in successive rooms. Anon you come to coffee rooms for men and women, a dining room, a smoking room fitted up with elegance. The board room is as dainty as a committee room at the Reform Club. The secretary's offices are as substantial

and convenient as a banker's. Hot water pipes run through every room from the grocer's shop on the ground floor to the shoemaker's and tailor's under the roof. Ventilation is every where provided for. Four merry girls prepare and supply the refreshments, and the food comes up from a well-furnished kitchen into which you can walk and where every joint is good. I have eaten in numberless restaurants in London, and I never ate purer food in any house than I did through an entire week that I lived among the co-operators in these rooms.

Throughout the whole of the extensive buildings there is no sign of poverty or make-shift,—nothing is mean or second-hand. Everything is as stately, as complete, and as opulent, as a railway or government office. 5,000 families are supplied from this place. When I say that this great store has sprung up, and all this comfort, convenience, and wealth, have been created since 1860, during the cotton scarcity, no more satisfactory answer need be given to the question, How has co-operation succeeded during the great commercial famine?

This is not all. This industrial society has one possession which no other co-operative society in England has. It rents a farm of 60 acres. On a spacious plateau, about a mile from the town, in the midst of noble scenery of valley and hill, is situated "High Sunderland"—the farm of the co-operators. The farm house is a large quaint stone building, three centuries old. Smiling cornfields and slopes of trotting sheep, welcome the co-operators on their visit to the farm. The families of the members amount to 20,000 souls, and they can all be regaled at a pic-nic in a single field. Far away from the eternal clatter of looms, the dust and heat of mills, the Halifax co-operator can sit down in the sunshine, the peace, and fresh air of nature, and taste the pleasure of that sweet possession which his good sense and wise thrift has given him. The society has made an offer to purchase this and the two adjoining farms, and either these or some others the society is destined to possess.

The other Sunday morning, eleven fine horses, looking as compact and sleek as though they had just returned from the Royal Agricultural Show at Newcastle on Tyne, were pattering on the way to Trimmingham Well, near Halifax. The cottagers on the road came out enquiringly as the noble beasts passed along. "What horses are these, are they going to a fair to-morrow?" asked a woman. "Why doesn't know", said her husband, in an exultant tone,—"they are ours, they belong to the store, lass." These were the co-operatives' horses, employed during the week in conveying coal. The society has also twenty railway wagons, for which they have paid £1,300. They sell £10,000 worth of coals a year.

This society numbers 5,000 members. It does business to the amount estimated this year at £120,000, and its profits at nearly £12,000. When it is remembered that the whole of its progress has been made in the panic period, it is no mean proof of the power of co-operation to hold its own, in the days of severest trial.

The present store commenced in the latter end of 1849, under the

name of the "Halifax Working Man's Co-operative and Provident Society." It began in a cottage house in Back Foundry Street, occupied by a Scotch weaver, named Richard Horsfall. Members attended at night, after their work was over, to sell the stores. The first name on the list of members was that of Benjamin Aaron. The profits declared in its first fifteen weeks' balance sheet were 12*s.* 2*d.*

In 1850 it removed to Cow Green. But it was not until 1860 that its great progress set in. In 1855 it lost £51 by a dishonest treasurer, in whom everybody had such confidence that no sureties were taken with him. This event produced a panic in the society. The board-room one night was stormed by a crowd of alarmed members. Sixty gave notice to draw out their shares. In those days these societies had no legal protection against fraud. Distrust was sown, the society was split up, and a courageous moiety, who never lost faith in the principle, held on, as they always do—as they did in Rochdale—as they are doing in Burnley now.

The credit system existed in the Halifax Society until May, 1861 (up to two-thirds of the amount of paid-up capital by each member). The confusion, trouble, waste of time, vexation, and moral harm of this system was immense. If any one had predicted then that in a few years there would be a social society of working men 5,000 strong, who would possess £15,000 worth of property, hold a large farm, and make £12,000 a-year profit, he would have been voted a greater dreamer than any poet who ever sang of that brighter day of which nobody believed in the dawn.

Co-operative Societies within Seven Miles of Halifax, 1863.

Name.	Number of Members.	Capital.	Sales for 1863.	Profits for 1863.
Bolton Brow	165	1,692	6,625	829
Cleckheaton	435	2,332	10,703	502
Cragg, near Mytholmroyd	46	333	1,082	13
Triangle, near Halifax	75	847	3,315	196
Flour Society, Halifax	2,566	5,488	40,784	2,176
Heckmondwike	637	5,305	23,460	1,942
Luddenden Foot	382	1,708	9,574	877
Mytholmroyd	242	696	5,077	316
Queensbury	716	5,320	19,203	1,331
Sowerby Bridge Industrial	2,153	11,176	35,439	4,261
Stainland	213	529	4,318	231
Brighouse	357	2,968	9,483	586
	7,987	38,394	169,063	13,260

There are many important co-operative societies in the immediate neighbourhood of Halifax. I have only been able to obtain returns from twelve in time for this paper. These societies have 8,000 members, £38,000 of capital, £169,000 of business, and make

annually £13,000 of profits. One of these societies is in Sowerby Bridge, a rough, rambling place. At the commencement of the cotton scarcity, this society began with a crowd of members. It put itself up buildings. It owns £15,000 worth of property, makes £4,000 a-year profit, and has paid all along the highest dividend of any society in the kingdom. In the worst year of the scarcity, 1862, it paid 2*s.* 6*d.* in the pound.

So much for co-operation in Yorkshire. I now turn to Lancashire.

I have obtained returns from Rochdale, the most eminent of the co-operative stores, showing the position of co-operation in that town for the four years preceding and subsequent to the civil war in America.

PROGRESS IN ROCHDALE, 1857-1864.

Year.	Number of Members.	Funds or Capital.	Business during the Year.	Profits realised on Year's Trade.
1857	1,850	15,142	79,788	5,470
1858	1,950	18,160	71,680	6,284
1859	2,703	27,060	104,012	10,739
1860	3,450	37,710	152,063	15,906
1861	3,900	42,925	176,206	18,020
1862	3,501	38,465	144,074	17,564
1863	4,013	49,361	158,632	19,671
1864	4,650	57,500	174,000	22,000

The last line in this Table of course shows—the year not being completed—the estimated position and profits for 1864.

From 1857 to 1860 the members increased from 1,800 to 4,600, the capital from £15,000 to £57,500, the business from £80,000 to £174,000, and the profits from £5,000 yearly to £15,000. From 1860 to 1864 the full period of the cotton crisis the profits have increased in steady gradations from £15,000 to £22,000.

In 1861 the society felt the effects of the scarcity of cotton. In the March quarter of that year the receipts for sales were £47,000, in the December quarter they had fallen to £42,000.

In 1862 the cotton famine was the most severe. Two-thirds of the operatives of Rochdale were almost entirely out of work. The greater part of the mills were entirely closed, and the people had to subsist to a great extent on their previous savings. This year the number of members of the store decreased 500. The capital of the society decreased £4,500. The cash received for sales decreased £32,000, yet this year the profits made amounted to £17,000. Not only has co-operation stood its ground during a period which it was supposed would destroy it, but the Store, the Corn Mill, and Manufacturing Society of Rochdale gave together £1,500 for the relief of the unemployed and the store alone made £70,000 of profits for its members.

The Corn Mill Society made £10,000 a year profits in 1860 and 1861. In 1862 the profits fell to £8,000, but last year they returned to £10,000 again.

The Manufacturing Society of Rochdale has kept up its full payment of wages during the cotton famine and has run more time than any mill in the neighbourhood.

If we turn to the four chief stores of Lancashire which stand chief after Rochdale, we find that Liverpool made last year £3,200 of profits; Bury, £4,600; Bacup, £6,600; and Oldham, £7,000.

POSITION OF PRINCIPAL STORES OF LANCASHIRE, EXCLUSIVE OF ROCHDALE, IN 1863.

Name of Store.	Number of Members.	Amount of Business.	Profits Realised.
Liverpool	3,154	44,355	3.201
Bury	1,412	47,658	4,689
Bacup	2,296	53,663	6,618
Oldham (two Societies)	3,299	87,766	7,686

The two Societies in Oldham are situated one in King Street and the other at Greenacre's Hill. The King Street is the larger by about one-sixth.

Bacup suffered more from the cotton scarcity than Rochdale. Bacup had scarcely any other branch of trade than cotton. I understand their receipts went down nearly one-half at the time of the greatest scarcity. At one time the Relief Committee prohibited the recipients going to the store to buy goods with the money given them. The poor men might have bought at the store to more advantage, but probably the Relief Committee considered the shopkeepers more in need of support than the stores. Bury, like Rochdale, has other branches of trade besides cotton, but its store sales went down more in proportion than at Rochdale. Liverpool has not been much affected by cotton scarcity, but has had difficulties of its own making, namely through giving credit to its members, but they have lately adopted the ready money system, which will check its sales for a time, but its stability and growth will be all the more certain after it recovers from the shock of this wise change. Some of the stores have given a trifle to the relief fund but not much.

The Mossley, Dukinfield, Staleybridge, Ashton, Heywood, Middleton, Rawtenstall, and Hyde societies have suffered badly, being almost entirely cotton manufacturing towns, yet none of the stores have failed, so that taken altogether, the co-operative societies in Lancashire are as numerous and as strong as they were before the cotton panic set in.

CHARITY AND RELIEF OF THE POOR.

The Poor Laws, Settlement and Removal, Irremovable Poor. *By* J. L. FOSTER, *York.*

HAVING in my youth had considerable experience in the administration of the old Poor Law system prior to the passing of the Amendment Act of 1834, and having for some years past acted as a guardian of the poor in the York Union, and devoted my attention to the general working of the system of Poor Law relief, I venture to occupy the attention of this Department in briefly discussing—

1st. The evils of settlement and removal.

2nd. The expediency of recent legislation for rendering one portion of the poor who become recipients of relief irremovable from their existing places of abode.

3rd. The desirability of extending the provisions of the Irremovable Poor Acts to all cases of pauperism.

It is not necessary that I should go into the origin of the laws regulating settlements and removals. We may presume that these laws were at the time of their origin both expedient and proper. That they have not been at all times satisfactory may be gathered from the frequency of the alterations made by Parliament for the amendment of the Law of Settlement. Various restrictions were put from time to time on the acquirement of settlements by rental and occupation; and the Poor Law Amendment Act swept from the statute book the settlements by hiring and service. But still the main evil was left in its full vigour. The recipients of relief in every parish and union were subject to removal if not resident in the place of their legal settlement, unless during temporary sickness or in the first year of widowhood. Subject to these and some minor exceptions, the law authorised the removal of every person to the place of his legal settlement; and in my opinion great injustice and hardship were the result.

The ratepayer was a sufferer: for the difficulties and intricacies of law and fact were frequently so great, that the cost in litigation to determine, by appeal to quarter sessions, the settlement of a pauper, exceeded the amount of relief which the necessities of the pauper required. Nor was that the only manner in which the ratepayer suffered. As an employer of labour, he frequently felt constrained to engage an inefficient labourer belonging to his own township in preference to seeking the services of an independent, energetic, and well-conditioned labourer, who, for the same wages, would do much more work in a far more satisfactory manner.

Next as to the labourer. The law of settlement was, to some extent, an invasion of the freedom of the labourer. In the rural districts, more particularly, that law checked the artisan and labourer

from carrying their industry to the best market, and a narrow a contracted policy was fostered, instead of one based upon broad a general principles. Thus it was that in some localities the labour continued from generation to generation in one groove, living fr hand to mouth; they contracted early marriages; forced their labo such as it was, upon unwilling employers, they themselves bei dissatisfied servants; and thus from bad to worse, one depende labourer being followed by another.

Various causes have tended to ameliorate the condition of t labourer; none more so than a firm and decided administration the law forbidding out-door relief to able-bodied poor. The war appropriated to this class of paupers, I have generally found near empty in every workhouse which I have visited. The pressure f accommodation is in the wards provided for the extreme aged, t sick, and the idiotic. But with these improvements there was st the law of settlement and removal in full force, and with it we associated many evils which it required further legislation remove.

I have alluded to the cost of litigation, and I may illustrate n position by the fact that the cost in law proceedings, during a peri of nine years, from 1850 to 1858 inclusive, by the parishes in t York Union, relative to settlement cases, was no less than £3,55 or an average of £395 per annum.

As to the hardship of the system of removals, our own knowled must satisfy us that to break up the home of a labourer—howev humble—and to remove him, his wife, and children, it may be to place scores or even hundreds of miles distant, and there to lea them, almost if not altogether unknown to the people into who parish they are removed, is a cruelty which nothing but the ste behests of the law can justify.

This hardship was continually felt by guardians of the poor, a they were impressed by the belief that some remedy was requisit but they were powerless. Various attempts were made to mitiga the hardship of this law; one being the allowance of relief to no resident poor, through the relieving officers of other unions, and reciprocal action by our relieving officers to poor resident with and settled elsewhere, on account of the unions to which the paupe belonged. But this mode of procedure was found to open the do to various frauds and impositions, of which I will give one or tw specimens. The parish of St. Michael-le-Belfrey had an age female residing in a distant part of the county, to whom they pa 2*s.* 6*d.* weekly. This went on year after year, under the old *régim* in the first instance, and subsequently under the new. At lengt the guardian of the parish made a special visitation of the case, an found the old lady had been long dead and buried, and her daughte had become an old woman in the enjoyment of the family annuit In another case of more recent date, the pauper was of the ma sex, residing near Leeds, and on the relieving officer being sent ove to a special visit of the case, he found the recipient was carrying o

a lucrative trade as a licensed victualler. On being remonstrated with he pertly replied, "If the York guardians were such fools as to send his brass, he was not such a fool as to refuse it." These and other cases of fraud determined the guardians of the York Union, in 1858, to abolish the system of non-resident relief.

The law of settlement further worked oppressively on the labourer as to cottage accommodation. Landowners shrank from the building of cottages on their estates lest they should bring incumbrances upon their townships; and consequently the poor in the agricultural districts in many localities were compelled to put up with the most wretched accommodation—alike a scandal to morals and right feeling.

It is needless I should further trouble you with observations on the evils of the law of settlement and removal, which at length were so apparent that Parliament was induced to consider the whole question. It was one of great magnitude, affecting every parish and almost every ratepayer in the kingdom. The greatest care was therefore requisite in dealing with such a question. The 9th & 10th Vict., c. 66, was the first wedge driven into the old law of removal,—the first check imposed upon parish-officers in dealing with the poor. That Act provided that no person shall be removable who has resided for five years in any one parish, so long as he remained a resident of that parish. By an industrial residence of five years a pauper gained a status of irremovability, and his relief was charged to the parish in which he was resident. That arrangement not being found to answer, by subsequent Acts the relief to such person was charged to the common fund of the union in which the parish was situated. The effect of this legislation was at once apparent in mitigation of the evils which the old system imposed upon the poor. In one year there were 436 persons relieved by the York city relieving officer, charged to the common fund of the union, on the ground that they were paupers irremovable, and not resident in the parish in which they were legally settled. Under the old law all these parties would have been liable to be placed under the penalties of an order of removal. Of this number, as to 200 I had no means of ascertaining their places of settlement; but of the remaining 236, I learned that only 50 had settlements in the York union; 73 others belonged to parishes beyond the area of the union; and 114 were of Irish origin with no English settlement. The occupation of the irremovable poor was also a subject of inquiry, and it was ascertained that of these 439 paupers, there were 125 unable to follow any employment; only 119 had any "occupation" in the city; the remaining 192 were employed as labourers in the agricultural districts, although their families were resident within the city. The want of cottage accommodation in the rural villages (so much to be deplored), and the increased demand for labour, consequent on the improved mode of agriculture, produced a state of affairs which (to the injury of both employer and employed) compelled the labourers, principally Irish, to walk several miles

daily to and from their work,—thus limiting their hours of productive labour.

After a few years' experience of the working of the Act 9th & 10th Vict., c. 66, the attention of Parliament was again turned to the subject of settlements and removals. A Select Committee of the House of Commons fully considered the whole question; and based upon the recommendations contained in their report, another Act was passed (the 24th & 25th Vict., c. 55) which happily further extended the status and area of irremovability. The time for acquiring a status of irremovability was reduced from five to three years, and the area was extended from a single parish to the whole union.

In a city situated like York, which is sub-divided into thirty-three parishes—many of them of most limited area—this Act was a great boon to the poor, who were otherwise subject to lose the status of irremovability by changing from one cottage to another, even in the same street. The four gates or streets approaching the four bars of this city, are each of them in several parishes. Micklegate is divided into three parishes, Walmgate into four, Petergate into three or four, and Goodramgate into five parishes. These various and intricate boundaries hemmed in the poor, and made the area of irremovability extremely limited. But the Act now in force, known as the Irremovable Poor Act, extended the area to the whole union, which spans a range of country from Sheriff Hutton to Stillingfleet, comprising 73,830 acres.

The Irremovable Poor Act came into operation in 1862, and the effect has been to transfer more than one-half of the Poor Law expenditure from parochial to common fund charges. It may naturally be asked, what has been the effect of the Act as between the town and country districts? The fact is, that the bulk of the irremovable poor are found in the towns—a result which was not expected. In the city of York four-fifths of the poor are irremovable, and charged to the common fund, while not more than one-third of the paupers in the rural townships come under that head. The following is the return for the past year:—

	Common Charges.			Parochial Charges.			Total Out-door Relief.		
	£	s.	d.	£	s.	d.	£	s.	d.
City district...	2,414	7	5	617	18	9	3,032	6	2
Rural do. ...	382	4	8	983	12	1	1,365	16	9

This works a practical injustice to the ratepayers in the agricultural districts, which brings me to the third topic in my paper; The desirableness of extending the provisions of the Irremovable Poor Act to all cases of pauperism. It would never do to make a retrograde movement; and therefore the inequality which recent legislation has produced can only be remedied by further legislation

in the onward direction—by making all relief chargeable to the common fund of the union in which the destitution arises. Where the tree falls there let it lie.

The district that has had the benefit of the labour of a man in his days of health and strength ought in equity to maintain him (if requisite) in his old age and infirmity, rather than remit him to a distant place which happens to be his legal settlement, but in which he has no other interest or connection. The great centres of industry which absorb all the labourers who can be obtained have no right, when these labourers become exhausted in physical power, to again consign them to the locality from which they formerly came, as worn-out and useless paupers, and therefore to be maintained at the cost of those who have not gained from their labour.

I am strongly of opinion that the only way in which this great question can be satisfactorily settled is by the entire and absolute abolition of the power of removal to the place of legal settlement, and that this is a consummation devoutly to be wished for by all parties.

I have stated that the grievances of the old law have been greatly mitigated by recent legislation; but there yet exists the means of inflicting legal cruelty in the removal of paupers. I will illustrate that assertion by a case of very recent occurrence. Forty years ago a tradesman gained a settlement in the parish of All Saints, in the Pavement, in this city. His son left York for London more than twenty years ago, and there settled in the employ of a horse-dealer, an occupation to which a Yorkshireman would naturally be adapted. He married a respectable young woman, who was a native of the metropolis, and they had a family of four children. The husband was unfortunately thrown from a vicious horse and killed. The widow and four fatherless children were engulphed in poverty. From their once comfortable home they removed to another part of the metropolis; and having thus lost their status of irremovability, this family became a parochial charge, and were brought to York under an order of removal. They were detached from their friends, and from the means of employment which aided the widow in doing something towards maintaining her family. The law consigned them to reside among a people to whose habits and mode of life they were strangers, and this transportation rendered the widow powerless and helpless. A great hardship was inflicted on this family, and no advantage was gained by any one. The removing parish gained a loss. Being wrongly informed before they removed to All Saints parish, they took out two orders of removal to other parishes in York; these orders were appealed against, and had to be abandoned at great cost to the respondents—a cost which far exceeded the sum that would have amply relieved the necessities of the widow and her orphan children.

The avoidance of all such cases would be accomplished by such alteration of the law as would place the relief of all paupers on the

common fund, and the working of the Assessment Act is laying the basis for rightly determining the true proportion to be paid by each township in a union towards that fund. The existing system of relieving a section of the poor from one fund, another section from another fund, tends to an uneven strain, and to keep up an unseemly collision between town and country. I therefore hope the day is not far distant, when Parliament will give its sanction and authority to the recommendation of the Select Committee of the House of Commons, who reported last session, that in any future legislation of the Poor Laws, in their opinion, provision should be made for placing the whole cost of the poor of each union on the common fund.

One important result I anticipate from the transfer of all relief to the common fund. It will have a tendency to obliterate any spirit of selfishness in those who are entrusted with the responsible duties of a Poor Law Guardian. They will no longer feel—as some men possibly do—that their principal mission to the board-room is to watch the particular interest of their own parish, and that they have no concern in the general business of the union. There will be no longer an arena for conflicts as to chargeability between one parish and another. The attention of the guardians will be directed to consider the necessities of the applicants, and the assistance which their cases require; to supervise the general business of the union and the conduct of the officers. In fact, they will have one object in common. Each member of the board will feel he has a responsible duty to discharge; to administer the law in such a manner, that the ratepayers are protected from the importunities of the idle and dissolute, and that the wants of the necessitous poor are relieved, not with a grudging hand, but in a kind and judicious manner.

Observations on some of the Plans adopted for the Relief of the Poor of Paris. By W. Blanchard Jerrold.

Among the many thousands of Englishmen who visit Paris every year, there are very few indeed who are at the trouble of inquiring how it fares with the poor of the great pleasure capital of Europe. Hence it is popularly believed, even now, that the French poor are not systematically treated and relieved, and that the well-to-do are not rated for the support of the helpless and ragged. It is true that there are no workhouses in France, where old and young paupers are brigaded. Houses are not rated for the poor. There are neither casual wards nor night refuges. Yet there are taxes for the poor, there are vast asylums for the poor aged, as Bicêtre and La Salpétrière, and the hospitals for Incurable Men and Incurable Women, and there are places where the children of the poor, and moneyless orphans, are cared for, and sent into the world well trained to become honest men and women. The principle which presided over the operations of the brothers and sisters of the ancient Hôtel Dieu, in the four-

teenth century, is in force now under the intelligent control of M. Husson, the chief director of the Assistance Publique of Paris. The brothers and sisters of old were invested with the right to take a basketful of fish from every cartload, and a proportionate quantity from other loads of eatables for their poor. Every pipe of wine paid toll to the Hôtel Dieu. The sheep of the poor had free grazing in the royal forests. And now the cost of relieving the poor of Paris is defrayed by taxes on admissions to the theatres and concerts, on the sale of graves in the cemeteries, on provisions brought to market, &c., by a municipal subvention, by charitable collections, and by rich hospital and asylum endowments. When the rich eat they are contributing to the food of the poor, and when they amuse themselves, they drop money into the coffers of the Assistance Publique. These are the sources of the income of about £1,000,000 sterling, with which the charity department of Paris has to deal.

The Assistance Publique is governed by a great central bureau. This bureau governs the twenty arrondissement bureaux. The arrondissement offices for the distribution of relief are directed by the mayor and his subordinates in co-operation with a commission, consisting of some thirty or forty of the charitable ladies and gentlemen of the arrondissement. These commissioners visit the poor in their own homes, or receive them at their own houses, and report on their merits. The relief given is in money, food, clothing, fuel, and medical attendance. It is carried out with the utmost order. In each arrondissement there are Houses of Help, where the sick are advised, and where they receive gratuitous medicines, winter clothing, and other comforts. There are 1,000 paid officials engaged in the many details of this relief of the poor: and the number of gratuitous servants of the poor must reach between 2,000 and 3,000; so that the twenty Bureaux of Benevolence, with the sixty or seventy Houses of Help which are under their charge, have help enough, yet the salaries of the Assistance Publique department of Paris do not exceed £58,000 a year. The salary of the chief poor commissioner is only £600 per annum. Thus the distribution of the income of the poor is cheaply effected.

A few words on the people who have claim to relief. The conditions on which a poor person can place his name on the list of people entitled to relief are many.

In the first place, the applicant for regular relief must have resided one year in Paris. He must be a Frenchman. A foreigner must have resided ten consecutive years in France, before he can claim assistance. Relief is divided into ordinary or annual relief; and extraordinary or temporary relief. The poor who are qualified to receive ordinary or annual relief, are the blind, the paralytic, persons afflicted with cancer, the crippled, and the aged who have completed their sixty-fourth year. The poor entitled to extraordinary or temporary relief are, the disabled, the sick, women who are suckling and have other children to support, deserted children, and orphans. Extraordinary relief may be claimed, moreover, by the heads of

families where there are at least three children under fourteen years of age—or, where there are two children, when one labours under a serious infirmity; or where the wife is *enceinte* with her third child: by deserted women; widows or widowers having at least two children under fourteen years of age, or one crippled or sick child; widows and deserted women who have one child and expect a second; and generally any persons who are in want through unforeseen circumstances.

No poor person can obtain help whose children are not attendants at school, or are unvaccinated. Applicants are admitted to the list, or rejected, by the committee of the arrondissement bureau. Their names being upon the books, they are classed according to their wants and condition. The arrondissement bureau has a list, which is kept for the general or central bureau. The relief given is chiefly in the shape of bread, meat, clothes, and wood. It is distributed by the bureau secretary, or by the sisters at the Houses of Help; or in the shape of tickets which are entrusted to the arrondissement commissioners or lady-visitors. Money help is given by the secretary into the hands of the person for whose relief it was granted.

The arrondissement bureau grants all kinds of assistance to the poor in cases of emergency. On the report of an administrator or commissioner, bandages, mechanical corsets, and wooden legs, are distributed to all comers who have a recommendation. Passports, with tickets of relief by the way, are issued to poor people who desire to travel in quest of work. The bureau has the power to grant a few persons permission to hawk goods in the streets, to give exemption from the fees due on registration or inheritance, and it watches the restitution of the clothes of relatives who have died in the hospitals. The bureau is also authorised to lend sheets, counterpanes, shirts, &c., in urgent cases, or to help the poor widow to apprentice her boy, or even to pay her rent. All this is out-door relief of a temporary kind.

But the bureau has to deal with permanent relief also. The Assistance Publique distributes among the twenty bureaus of Paris a certain number of pensions for the poor, in lieu of admissions to the asylums. These pensions are, for men, £10 2*s.* 6*d.*, and for the women £7 16*s.* per annum. They are paid monthly, the winter payments being heavier than those paid in the summer. Thus—in the five winter months, an old man receives 19*s.* 10*d.* monthly, and a woman 14*s.* 5*d.*; while in the seven warm months the payments are—to the man, 15*s.* 3*d.*, and to the woman 12*s.* This money is not recklessly thrown across a counter. The bureau judges the necessities of each case, and gives the value of the pensions, in provisions, or linen, or cash, as the committee may decide. In addition to these pensions, the recipients have gratuitous medical advice, medicines, and baths. The old out-door paupers are visited from time to time by the administrators or commissioners of the bureau to which they belong, and by representatives of the central authority, to establish their existence, and the necessity for the continuance of

their pension. If they are caught begging, or otherwise misconducting themselves, their pensions are withdrawn.

Medically, the poor of Paris are well cared for. The doctors employed by the bureau are bound to attend at the bureau, or the House of Help, to give advice to all poor people who may apply to them, and prescriptions to all who are on the books of the bureau, and who are entitled to gratuitous medicines. The medical men also visit the poor in their homes, and are bound to do all that is needful for their case, which a sister of charity cannot perform. An *employé* of the bureau makes the round of the sick on the list, to see how the invalids are, and how often the doctor has visited them, his visits being recorded with the day and hour of each, on a form which is kept in the sick room. This is an excellent plan, that does away with the possibility of neglect.

Again, when the poor sick are almost convalescent, they are sent to the convalescent hospital of Vincennes, or to that of Vesinet. These admirable institutions are open to all working-men and women. They are in the fresh air; and their advantages are to be enjoyed for a few francs. For the convalescent poor who have been treated in the hospitals, there is Montyon's bounty. They may receive 20 francs (in money, or food and clothing) if they can fulfil the conditions of the bureau—which are not very stringent. The experiment of attending the poor at their own homes, rather than sending them to the hospitals, has been extensively tried in Paris of late years; and has proved a great economy of money—each home-treated patient costing 13*s.*, while every hospital patient costs £2. A few words on the treatment of poor abandoned orphan children. The French system is in all respects unlike ours. We brigade the little helpless ones; the Paris governors of the poor scatter their *protégés* far and wide in the homes of honest, well-conducted working men. The children who are deserted, whose parents are in prison, or are unable to feed and clothe them, are all provided for, not in great asylums, but in new and humble homes suited to their condition. The children who fall under the care of the Assistant Publique are first told off to an asylum, and thence distributed to be taken care of in country places, where they are constantly visited by Assistance Publique officials. The system leads to abuses, I have no doubt—as offering facilities for getting rid of what a writer in the *Saturday Review* called "superfluous progeny;" but the facilities are not so great under the present system as they were in the old days of the foundling turn-tables; and let it be borne in mind that, at any rate, this home-education of helpless children produces a race of honest citizens, trained to labour for their bread. At the present time the Assistance Publique of Paris have about 20,000 children scattered in country homes. In 1861 the number of deserted children and foundlings gathered from the streets of Paris was 3,362. In the same year the Assistance Publique took charge of 406 orphans; so that their family increased by 3,768. Of this number no less than 707 died within the year. The Assistance Publique endeavour to explain this

wholesale desertion of children. The director, M. Husson, says that penury heads the list of causes, accounting for the abandonment of 2,906 innocents; the death of the mother accounts for 531; while the parents of 293 had disappeared. The progenitors of 38 were in prison. Poverty then, and the death of the natural protector of the child, are sources which fill the great public nursery of Paris.

The mortality among these poor children is, as I have remarked, great. It is the rule of the administration to keep the fewest possible children in their asylum; because they are more cheaply and healthily brought up under artificial home influences created for them in the country. The mortality is much higher in the asylum than in the country cottage. In the former it is 14 per cent.—in the latter it is 9 per cent. The deaths are chiefly among the infants. Of the 1,604 abandoned children who died in the country in 1861, 1,059 were less than one year old. A medical commission has sat to inquire into the reasons why the mortality is so great among these young children. The first and foremost reason discovered by the doctors, is the repugnance of the mothers, when forced, as they are in the hospitals, to nurse their children. These mothers, the commissioners assert, have only one thought, namely, to separate themselves from their offspring directly they are outside the hospital. The president of the medical commission concludes:—

"The most incontestible cause of death, that which overbears all others, and on which all the doctors concerned are agreed, is the insufficiency of the infant's natural food."

The Assistance Publique take temporary charge of the children of parents who are in hospital or in prison; and they distribute them in workmen's homes near Paris, that they may be at hand when their parents shall be able to provide for them.

If there is distress in Paris of an acute kind, and if from time to time men and women die of hunger, it is not because there are none in the city of boulevards who care for the unfortunate. On the contrary, it must be confessed that the system of relief, begun in 1801, and perfected in 1849, is admirably and cheaply administered. Every poor man, woman, or child who falls sick, may find a comfortable retreat in a well-ordered hospital, or be carefully advised and treated at home: the deaf and dumb and blind are cared for in spacious asylums: the orphan enters a new home and the helpless aged have Bicêtre, La Salpetrière, or a pension. There are, moreover, noble institutions in and around Paris (some of which have been lately established) the like of which we have not in, or near, London.

There is no lack of charity in England; but there is lack of skill and economy in the administration of it. In Paris the poor are not severely taxed for the support of the moneyless. The pauper's dole is taken out of the rich man's pocket: his crust is from the table of the well-to-do. The poor quarters are not compelled to support all their own misery, leaving the Chaussée d'Antin free from a poor tax altogether. The State subventions are

spread in proportion to the density of the indigent population. If the poor of one arrondissement obtain more help than their fellow-paupers of a neighbouring arrondissement, it is because the inhabitants of one quarter give more than the inhabitants of another—a house to house voluntary collection being made at the beginning of every winter.

The system of poor-relief is comprehensive and economical and humane. It is supported by property and taxes that never affect the pockets of that great class which exists in France as in England, namely, workmen who live from hand to mouth, and eat or fast as commerce prospers or declines. A million sterling is the Paris poor budget, and it relieves 90,000 people: yet this sum leaves much suffering unrelieved, or there would be no reason for the existence of the many *œuvres*, or works which are actively conducted by private charity in every part of the city. Some of these are admirably contrived, and generally with the object of finding new homes for poor children, or helping poor women in their time of trouble. The *crèches* are many; there are primary schools everywhere; there are reformatories for young criminals and disciplinary homes for fallen women.

It would repay the trouble of any person who has studied the many forms which charity has taken in our time, to read the *Annuaire de la Charité*, published in Paris. It describes many humble active charities that might be introduced into this country with good effect. The Œuvre des Dizaines, for instance, which bears this sentence for its guiding principle:—

"If every ten families in easy circumstances were to combine together to take care of a family in distress, pauperism would be almost abolished."

The cherishing of home influence as the best with which poor children can be surrounded, is the main feature of all Paris charities that deal with the young; and I cannot help thinking that vast good would be accomplished if a few among our London philanthropists would establish an orphan society, that should possess not one brick in the way of asylum; but that should create a thousand new homes over the country, for a thousand of the little Arabs of our streets. It is a question of drill under a Gothic roof, with a number for a name, or of a new home in a wayside cottage, and free labour in the fields.

In my Paris wanderings among the poor I came across one institution or society of recent date, which, in conclusion, I will describe in a few words, in the hope that they may direct public attention to the ruin which the public-house loan societies spread among the working classes, and the possibility of helping the poor to help themselves, by lending to them, in moments of difficulty, on fair and honourable terms.

The Prince Imperial's Loan to Labour Society, lends money to working men. "This institution," according to the report, "is established to help the intelligent and honest working man. Loans

made to the worker, when he is in distress, re-animate his courage, and make him thrifty. Unfortunately, probity, economical habits, industry, and moral guarantees, are all the security the workman has to offer to his employer. But these are not enough."

Now, the object of the society is to afford material guarantees to the honest working man who has not got them; using the name of the boy-prince as an incentive to other children to subscribe to the fund. The subscribers are chiefly children, and the act of subscribing a weekly penny from their pocket-money is held to be a wholesome lesson to them. The lady patronesses are bound to collect subscriptions, to enlist all the children of their acquaintance as associates, and to form them into divisions and subdivisions. The special object of the fund is to afford loans to workmen, for the purchase of tools, instruments, or utensils, which are the first necessaries of their trade or home; and to give assistance to them in any temporary or accidental difficulty. The loans are granted in this way.

When a working-man applies for assistance he must be provided with two witnesses who will attest his identity, and declare that he is a man of well-regulated life, and that he really needs assistance. These two witnesses must be intimate friends of the applicant, and inhabitants of the commune in which he dwells. The society is content to take their truth as witnesses for sole guarantee that the money will be returned. They are not asked to incur the least responsibility before the law. At the present time £20 is the highest loan that is granted. The interest charged is 2½ per cent. The loans are repayable, as a rule, in three years; but the time is extended in cases of illness, or of departure on military duties. The children of defaulters, and the heirs of a borrower who died without having repaid his loan, are not admitted to the benefits of the society until they have liquidated the unpaid debt of honour.

The advantages of a society like this are obvious. It cannot be said that its operations have the least tendency to pauperise the working classes. On the contrary, it helps only those workmen who are able to show that they lead a regular life; and who can bring two intimate friends to prove that their misfortunes are not the consequences of their vices. The dignity of the honest working-man who has fallen into trouble, is not hurt by the idea that he has become an object of charity; since he understands that the money the society advances him is to be repaid. He may, indeed, be proud of having obtained a loan; since it is a proof that the society have faith in the honour of him and his friends.

Many an astute commercial man will laugh at such a loan society. I can only assure him that such a society is now at work in Paris; that it is under the control of people who have not the least gleam of an idea they will end their days at Charenton; and, moreover, and lastly, that the poor borrowers who had deposited only workmen's honour as security, have redeemed their pledge to the centime, as the report for 1863 sets forth, in sober black and white.

TAXATION.

Taxation. By William Pollard Urquhart, M.P.

I FEEL that I owe some apology to the Association for proposing to read a paper on a subject which was fully discussed at the meetings of 1862 and 1863. But on these occasions the matter was treated by all parties as if it were entirely a question of antagonistic class interest; some were endeavouring to show that the owners of property were not paying their proper share of, and others were seeking to prove that they already contributed at least their full quota to the necessary burdens of the country, Now, all the attention that I have paid to the subject has convinced me that a remarkable opinion, broached by the late Prince Consort—to the effect that the more the knowledge of social science was extended, the more certain did it appear that the true interests of the different orders of society were not antagonistic, and that whatever was most conducive to the good of the whole community was also the most profitable to each of the various sections of which the community is composed,—is as applicable to the theory of taxation as it is to any other branch of national economy.

In beginning this subject, I gladly avail myself of a simile made use of about two years ago, by one who has always been regarded as a champion of the landed interest. On the occasion referred to, Mr. Disraeli said, that whatever increase was made to the burdens of the country would be sure to be placed on the land,—and he proceeded to compare the land itself to a milch cow that was about to be drained of its milk to the very last drop. Now, it is a well-known fact, that the cows of a dairy farmer who lives by sending to the market all that he can extract from them in the shape of milk and butter, are in much better condition than those of one that makes his money by selling the produce that would otherwise be given to them as food; and I cannot but think that the animals, if they could reason and think for themselves, would deprecate the interference of any indiscreet protector of their interests, who remonstrated with their master for drawing all his profits directly from them, rather than from the sale of his crops. It may, then, be well worthy of the serious consideration of the landowners, whether any greater practical wisdom is evinced by their friends who advocate the imposition of taxes rather upon articles of commerce and consumption (which, there is good reason to believe, if left perfectly free, are as sure to augment the value of their estates, as the hay and turnips are sure to improve the condition of the milch cows) than upon the surplus profits arising from the occupation of land which constitute rent.

I need hardly state that this is no new idea, either of mine or of the gentlemen who have attended here on behalf of the Liverpool Association. It is now not very far from two centuries since Mr. Locke, in his essay concerning lowering the interest and raising the value of money, wrote as follows :—

"Taxes, however contrived, and out of whose hand soever immediately taken do, in a country where their great fund is land, for the most part terminate upon land. Perhaps it will be found that those taxes which seem least to affect land will most surely of all others fall the rents. This would deserve to be well considered in the raising of taxes, lest the neglect of it bring upon the country gentleman an evil that he is sure to feel, but not to be able very quickly to remedy; for rents once fallen are not very easily raised again. A tax raised on the land seems hard to the landowner, because it is so much money going visibly out of his pocket, and therefore, as an ease to himself, the landowner is always forward to lay it on commodities. But, if he will thoroughly consider it and examine the effects, he will find he buys this seeming ease at a very dear rate; and though he pays not this tax immediately out of his own purse, yet his purse will find it by a greater want of money there than that comes to, with the lessening of his rents to boot, which is a settled and lasting evil that will stick upon him beyond the present payment. It is vain in a country whose great fund is land to hope to lay the charge upon anything else. The merchant, do what you can, will not bear it: the labourer cannot, and therefore, the landowner must: and whether he had best do it by laying it directly where it will last settle, or, by letting it come to him by the sinking of his rents, which, when they are once fallen, every one knows are not easily raised again, let him consider."

The same opinions are to be found in many of those tracts on commerce and finance by writers chiefly of the last century, recently collected by Lord Overstone and Mr. M'Culloch. They are also maintained by the French economists of the last century, from Quesnay to Dupont de Nemours, and, to a certain extent, have received the sanction of Dugald Stewart. The substance of the arguments of the French economists is thus stated by Mr. Turgot:—

"The smallest trifle so paid, *i.e.*, a tax on exchanges or transactions of society, is a subtraction from actual property. Taxes ought to be paid for the preservation of property, not to prevent its formation. The reflections of those who have mastered the subject, confirmed by experience, show them clearly that the whole burden of taxation, in whatever form it is raised, when traced through all its ramifications, falls eventually upon the owners of the soil. It sometimes falls upon them directly, by the application of part of their revenue to the necessities of the State, sometimes indirectly by the diminution of their income and the augmentation of their expenditure."

But, perhaps, by no writer has the pith of what has been said in their favour been better expressed than by Sir John Stewart, who though not altogether a disciple of their school, has written :— "Taxes ought to affect the fruits only, not the fund."

To return, however, to the great English philosopher, Locke In the extract I have just read from his Essay he says:—"If the landowner will thoroughly consider it, and examine the effects, he will find he buys this seeming ease [from taxation] at a very dear rate." Perhaps there is no method by which we can [to use Locke's words again] "thoroughly examine it, and consider the effects'

more efficiently, than by supposing it applied to the area of taxation with which the landowner is familiar—a parish, a poor law union, a hundred, or a county. For rates are frequently levied for local purposes over these districts, and they, from the smallness of their size compared with the country from which the imperial revenue is raised, afford the best opportunity of what logicians call "verifying a theory by observation and experiment."

Local rates, I need hardly observe, are levied off the occupiers in proportion to the value of their holdings. They, it is well known, form a deduction from rent as certainly as if they were paid in the first instance by the owners of the soil; for every man about to take land or premises ascertains the amount of taxes chargeable thereon, and frames his bargain with his landlord accordingly. Nor would there be any difference in their ultimate incidence, if they were raised in any other way. Suppose, for instance, that instead of being levied according to the valuation or rack rent of the premises, they were apportioned according to the probable or supposed profits of the occupier. An incoming tenant would still take an account of them in framing his bargain about rent as surely as he does of the rates as now exacted. If, for instance, poor rates were levied in the same manner as the income tax, the farms of a highly-rated parish would still let for less in proportion than those of a low-rated parish. The effects would still be the same if, under the delusive expectation of making every inhabitant of a district contribute to sundry necessary objects in proportion to what he was supposed to have to spare, a tax were imposed on his real or presumed consumption of the most necessary articles of subsistence. The possible amount of such tax would still be taken into consideration by every incoming tenant, before he made his stipulation about rent. The variation of such tax in the divers districts, parishes, or counties, would produce a corresponding variation in the letting value of property.

In short, turn and twist about these rates as you will, they cannot but enter into the calculations of every man about to take land or premises. Stock will fly from a district where rent and taxes will not allow it to realise ordinary profits. Stock can adjust itself to taxation; land cannot. As Adam Smith says:—"Land is an article which cannot be removed, whereas stock may." "The proprietor of land is naturally a citizen of the particular country in which his estate lies, the proprietor of stock is not attached to any particular country." These observations, if for the word "country," we substitute "county," "district," or "parish," express all that I contend for in this part of my argument.

Nor would the landlords of any such district fare any better, if, with the view of keeping them ignorant of what they did pay, and preventing them framing their bargains about rent accordingly, they attempted to levy a tax on each article of consumption before it reaches the consumer on their estates. For all people, whether initiated or not initiated in the mysteries of government and taxa-

tion, would migrate from, or hesitate to settle in, a district whe they found the cost of living artifically dear. Thus would l diminished that competition among tenants and capitalists whi is one of the causes of high rents ; and it is easy to see that su competition would continue to diminish, till rents had fallen much beneath those paid in other districts as to offer a full equiv lent for the enhanced cost of living. So the primary effects of su indirect taxation would be to lower the rents in the district which it was tried to an amount equal to that which the landlor would have to pay, if it were levied directly off themselves.

But, I think also that a little further consideration will sho that not only would the landlords not shift thus the burden off the own shoulders, but they would further depress the value of the estates to an extent of which it might be difficult to calculate. F in the first place, if an attempt were made to tax sundry articl before they were consumed in any particular district, it would necessary to maintain a staff of men invested with proper authorit to prevent their free importation or production. This alone wou be equivalent to maintaining an extra police force at the expense the district. I have often heard proprietors complain of the additi made to the poor rates by the workhouse establishment charg yet the maintenance in each district of the cordon of officers th would be required to make such a scheme of taxation practicab would be far more onerous.

But the additional expense of such a preventive staff, though l no means inconsiderable in itself, would constitute, in my opinic but a small part of the damage inflicted on property by any attem to levy the district rates by a tax on consumption. For I think very difficult to conceive that any tax levied on any article will n to a certain extent, restrict its use. Such restriction would ent diminished importation and production, and consequently diminish trade and diminished rents. Let us for one instant suppose t landlords of any particular district combining to stop the grumbli of their tenants about heavy rates by compounding with them fo duty on every article of general consumption imported or produc therein. Any prudent man of business would foretell that the ret trade of the district would be annihilated ; every shopkeeper dealer of any sort would emigrate, the farmers would lose their be markets, and many would be compelled to throw up their farms they did not get a large immediate reduction of rent.

Now if the validity of these arguments, as applied to the small areas that are usually assessed simultaneously for local rates, admitted, it is difficult to assign any reason why they should n hold equally good as regards the whole extent of the country that taxed for what is called imperial purposes. As Mr. M'Cullo justly observes, "The same principle that would prevent the emplo ment of capital in Yorkshire, if the return to it were less than Kent or Surrey, regulates its distribution through the differe markets of the world." It is true that trade and industry tak

much longer time to change their countries than their counties. But the same causes will produce the same effects, more slowly it may be, but no less surely in the former than in the latter. To quote Mr. M'Culloch again, "The vicious nature of the taxes to which Spain was subjected was one of the most potent causes of the decline of her industry." In a memorial addressed by the merchants of Amsterdam to the Stadtholder, William IV. in the year 1741, they complain that the high prices caused by the heavy duties on every article in consumption rendered it impossible for them to compete with foreigners in the neutral markets of the world, and caused a great deal of capital to be invested elsewhere. And if religious intolerance caused many industrious citizens to pass over the sea into England from the Low Countries, and from France, in the slow sailing days of the sixteenth and seventeenth centuries, it will hardly be denied that fiscal oppression will make men undertake corresponding migrations in the present era of rapid locomotion.

It would be almost superfluous in the existing state of economical science to advert to the effect which such increase or decrease of trade produces upon rent. We have numerous examples of it. Concerning one of the countries in which it has already been mentioned that a decline of commercial prosperity was produced by high taxes on consumption, Locke gives us to understand that the value of land in Guelderland was declining, while its landowners were attempting to shift the burdens from their own shoulders to the trade of Amsterdam. In 1741, at the time that the above mentioned memorial was presented to the Stadtholder, we read of sundry measures devised for the protection of agriculture, which strongly remind us of those tried in England during the period when it was the fashion to cry out about agricultural distress. To what else but increased commercial prosperity are we to ascribe the great rise in the value of land that has taken place since the imposition of the land tax in the reign of William III.—a rise so great, that a tax originally settled at 4*s.* in the pound, is now in many places less than ¼*d.*, and in no place we believe more than 1*s.* in the pound of the present rent? But, perhaps, the most remarkable change in the circumstances of the land is that which has taken place within the memory of men now living. Not long after the peace of Paris, when Government attempted to bolster up the price of wheat to 80*s.* a quarter, and no direct tax was levied off land for imperial purposes, cries of agricultural distress were rife from John o' Groat's house to Land's End.

If anyone had ventured to assure the complainants that the true remedy for their distress would be to desist from any attempt to bolster up the price of their produce, and to submit to an impost on their properties sufficient to enable the Government to dispense with some of the taxes that pressed most heavily on the consumption and the industry of the country, he would have seemed unto them as one that mocked. Yet land has never neither let or sold for so much as it has since both of these things have been done.

Taking these undoubted facts into consideration, the assertion that the material interest of the landowners are more promoted by the extension of trade than by their exemption from taxation, cannot be said to be a mere fanciful speculation, or a theory unsupported by experience.

I believe that at the last meeting of this Association, there were some who did not dispute the general soundness of the arguments in favour of direct *versus* indirect taxation, but were of opinion that in our present somewhat complicated social state, it would be impossible, without involving a too great disturbance of existing interests, to introduce a change large enough to be productive of any great benefit. It appears to me that if the validity of the principle were universally admitted, great steps in the right direction might at once be effected, and possibly at no distant date the whole change from one system to another be accomplished without much inconvenience to any class. I presume it will hardly be asserted that the substitution in 1842, of an income tax of 7*d.* in the pound for the duties that pressed most severely upon trade involved any of the evils of a too sudden transition. Yet, if that rate of income tax had been continued, and if the expenses of Government had remained as stationary during the last ten, as they were during the first twelve years of that period, we should now have been able, in addition to the duties that have already been diminished or repealed, to have dispensed with another £15,000,000 of duties on articles of consumption,—say the tea duty, the malt duty, and half the sugar duty. Another twenty-two years of like progress and economy would enable us to sweep away nearly the whole of the remaining customs and excise duties. The further expansion of the revenue might then allow of such modification of the income tax as would make it more nearly in consonance with the theory of taxation which I have endeavoured to recommend.

I am aware, however, that there are many who would object to so long a continuance of a tax which is so indefensible on the ground of abstract justice as the income tax, and that, however great may be the improvements in our fiscal system which it has already enabled or may hereafter enable us to effect, yet its pressure in individual cases is so severe as to render desirable its speedy extinction. Moreover, in justice to all owners of fixed life incomes, and all who are taxed under schedule C, D, or E, it must be recollected that the rise in the value of property, which there is good reason to suppose would follow the repeal of taxes upon consumption, trade, or industry, would not affect annuities, interest, nor ultimately profits,—so they cannot look forward to an ultimate rise of permanent income as a recompense for the first immediate pressure of direct taxation. To carry out properly the principles which I have sought to advocate, the whole of the direct taxation ought to fall upon rent, or upon such income as immediately merges into rent. I would, therefore, venture to submit the following scheme as more consonant with the theory I have sought to establish, and as one involving but little derangement of existing interests in its execution.

The amount of property taxed under schedule A amounted last year in round numbers to £140,000,000. A tax of 2*s.* in the pound on this would amount to £14,000,000. If to this were added a slight augmentation of the house tax, and a moderate duty on licenses on trades and professions, so framed as to fall on those extraordinary profits which, economically considered, partake of the nature of, and tend ultimately to merge into rent, we might calculate on at least £15,000,000 per annum from these three sources of direct taxation. The reduction of the estimates to those of 1853 would place £13,000,000 more at the disposal of the Government. They would then be able to dispense with the existing income tax, and repeal £21,000,000 of customs and excise duties—say those on malt, tea, sugar, and coffee, besides a multitude of comparatively unproductive charges, which, though they embarrass trade, bring but little to the exchequer. If the future average annual increase of the revenue be estimated at £1,000,000—a low estimate considering the great elasticity it would probably exhibit after the freeing of so many articles of commerce from the trammels of customs and excise—seven years' perseverance in this scheme would enable us to dispense with all remaining taxes on consumption, with the exception of those on spirits. When the still progressive increase of the revenue placed a furthur surplus at our disposal, it would be for our legislators to consider whether they were really obtaining any of the moral ends they sought for by continuing these duties, or whether they would not show more practical wisdom by allowing the people to drink what they liked, and in the words of Sydney Smith, desist from all attempts to make sumptuary laws for the belly.

It seems to me that my plan would be most equitably carried out by having my proposed tax of 10 per cent. divided equally, as is done with the Irish and Scotch poor rate, between owner and occupier. For the latter would be the first to experience the advantageous effects produced on property and profits by the removal of trammels from trade, and would, therefore, be the first to be compensated for any temporary sacrifice that would be required from him ; whereas, the additional outgoing would not be made up to the former until the enhanced prosperity of the occupier had increased the competition for land and premises. It would be but fair, therefore, that those who would be the first to reap the benefit should also bear their share of the brunt of the change. And it certainly appears to me that in this mode the necessary alteration in our system of taxation might be effected with the least possible inconvenience to any class. Take, for instance, the case of the holder of a £6 tenement. His share of direct taxation under the plan that I propose would be 6*s.* a year. As a set off against this, he would have tea, coffee, sugar, and beer at greatly reduced prices. If he were a working man, he would have a great deal more than 6*s.* a year increase of wages produced by the stimulus given to the industry of the country. A shopkeeper in a country village, rated at £20 per annum, would have to pay £1 per annum property tax.

He would be probably saved at least this much in diminished household bills. If he were a grocer, he would possibly find his business doubled; if he were anything else, he would with equal probability find the increased custom of the neighbouring grocers worth a great deal more than £1 per annum. The higher class of shopkeepers would not only have the advantage of diminished expenses of living and increased trade, but would also be spared the income tax. Nor is it too much to expect that the farmer would immediately reap advantages sufficient to compensate him for the additional 8½*d.*, the difference betwen 1*s.* and 3½*d.* in the pound of rent, the amount to which he has generally been subjected under the Income Tax Act, that would be imposed on him. He would have diminished outgoings for groceries and for the beer consumed by his family, for himself, and his men; he would have all the benefit both in the sale of his barley and in the preparation of white crops for the feeding of cattle, that would undoubtedly follow the total repeal of the malt tax; and he could not fail to derive great advantage from the fresh railway communication, and the increased demand for many articles of his produce that would arise from the enhanced prosperity of the towns. The additional charge imposed on the landlord, who, for the last twenty-two years, has had to pay an income tax seldom less than 7*d.* in the pound, would be only 5*d.* in the pound, 4*d.* less than was exacted from him during the Crimean war. This, surely, does not seem an extravagant price to pay for the purpose of securing the prospective advantage of increased rents, which, if my theory is true, would ere long accrue to him.

It might at first sight be thought that an imposition of even this moderate amount upon the rent of a highly mortgaged estate, without allowing a corresponding deduction from the sums annually paid to mortgagees, might involve serious embarrassment. But I think it will hardly be disputed that the exemption from income tax of the proceeds of all money lent either upon public or private security, would cause such a corresponding fall in the rate of interest, as would be some equivalent to the mortgagor; so that between increased rent on one hand, and diminished interest on the other, he could not long be a loser. In justice to him, however, the laws of real property ought to be simplified, so as to allow him to reap the full benefit of the fall of the rate of interest, to place him in the same position as the railway and other public companies stand in arranging about their debentures, or as the owners of estates in France and Germany, who avail themselves of the *Credit Foncier* in the one, and the Landschaft Credit Vereine in the other. I believe that a great step in this direction has been made by Lord Westbury's Act, and there already seem indications of companies turning its provisions to account, for the purpose of extending to owners of property all the advantages enjoyed by men of the same class in the above-mentioned countries.

Free Trade and Direct Taxation; a Paper submitted on behalf of the Council of the Financial Reform Association. By JOHN NOBLE, JUN.

THE principles which should regulate the levy of taxation have now been discussed at five meetings of this Association, viz., at Liverpool, Bradford, Glasgow, London, and Edinburgh. Upon each of these occasions we have prepared a bill of indictment against duties of customs and excise, which we have sought to enforce alike by sound argument and unanswerable facts.

Our opponents are twofold, one class demanding a scheme of taxation, the other asserting that the present method is, if not absolutely perfect, at all events as nearly so as possible. From neither have we received any answer to the charges we have preferred; mere dogmatic assertion has been substituted for argument, and a vehement maintenance of things as they are for scientific inquiry into the truth of our case and the possibility of direct taxation.

We are prepared to admit that, as at present levied, there is "injustice and hardship connected with direct taxation." This injustice, however, is not essentially bound up with the principle; direct taxation may be unjust. There is, however, this grand distinction in its favour, viz.—while direct taxation may, indirect taxation must be unjust. To adopt the words of the late Sir Robert Peel, "all indirect taxation has a natural tendency to produce injustice." This fact is fully admitted in a recent number of the *Economist*, in which it is shown, that customs and excise duties, which tax the peculiar enjoyments of the rich, have been entirely repealed, and the whole of our indirect taxation is now levied upon articles of which by far the larger proportion are consumed by the poor. There can be no greater difficulty in securing the requisites of certainty in the amount of payment, convenience in the time of payment, and an equitable contribution from every class, in direct than in indirect taxation. These ends are all secured in the payment of rent, premiums on insurances, and contributions to provident associations, without any serious difficulty, and there is nothing peculiar in taxation which should make it an exception. Our principal complaint is, not so much that these taxes are unjust, as impolitic, not that they press unduly upon any one class, but that they seriously injure all, diminishing the employment and lessening the resources of the entire community. The real problem is, how to raise the necessary revenue in a mode that shall interfere as little as possible with the productive power of the community. This, we maintain, can only be done by the adoption of direct taxation and its consequence, perfect free trade.

The vast increase in our exports and imports during the last twenty years abundantly demonstrates that the results we have predicted as certain to flow from the repeal of all indirect taxation,

are not the mere dreams of enthusiasts. Partial free trade has increased the totals of our foreign commerce from £172,202,716 in 1840, to £444,953,715 in 1863. Not the least noteworthy example of the benefits of this policy is the increase of trade consequent upon the commercial treaty with France, with which the name of Richard Cobden is indelibly associated. During the three years preceding that event our total trade with France was £72,239,136, in the three subsequent years it amounted to £125,682,721, an increase of £53,442,985. How was this vast result attained? Mr. Gladstone in his last financial statement supplied the answer. Speaking of that treaty, he said, "In order to make up for the reductions and remissions, we were compelled to impose for that single year, one additional penny in the pound of income tax which would not otherwise have been required." Truly a profitable investment. Nor is this an isolated case, all our fiscal remissions have been based upon this substitution of direct for indirect taxation. When Sir Robert Peel first applied the pruning knife to our tariff, he boldly, some thought rashly, created a deficiency; that deficiency he supplied by a direct tax, which has ever since been the instrument by means of which obstructive taxes have been repealed, and the trade of the country been developed in a few years to an extent only possible in centuries under a more restrictive system. Freedom of trade has been the means of vastly increasing our resources. "If I select," says Mr. Gladstone, "several years in which Parliament has, with firm and unsparing hand, addressed itself to the business of liberating commerce, these operations have been immediately followed by striking augmentations in the trade and commerce of the country." It is through the instrumentality of direct taxation that "these operations" have been rendered possible. If further evidence be needed of the impolicy of such imposts, we have it in the following facts. In the year 1860, certain articles were subjected to an increased duty, in the following year the importation of such articles decreased 17½ per cent.; the imports of such articles as were left untouched remained stationary; the import of those articles upon which the duties were reduced increased 17½ per cent.; while upon those articles upon which the duty was repealed, the increase was 40½ per cent. Here is the case in a nutshell; if you wish to decrease your trade, increase your customs duties; if to keep it stationary, maintain them at their present rate; if to increase it, reduce them; but, if you would derive the greatest possible advantage, repeal them entirely.

We shall now briefly allude to two or three considerations tending further to elucidate the question. The first is, that by whatever method we raise our revenue, the source from which it is drawn is the same, viz., rents, profits, and wages. By direct taxation we take what is required by the State, and that only; by indirect taxation we take a much larger sum, in the shape of profits upon capital advanced to pay duties and heavy additional expenses incurred in their collection. It has been calculated that two-thirds

of the amount extracted from the pockets of the tax payers would be saved by direct taxation, and would be profitably employed, thus increasing the demand for labour, the production of the necessaries, comforts, and conveniences of life, and enhancing the value of every description of property. Taxes upon commodities are really taxes upon wages, and are moreover greatly enhanced by the extra profits and charges they render necessary; hence they occasion in the long run a great decrease in the value of land, and by increasing the price of commodities lessen their consumption. "The most efficacious working fund that can be established," says the late Mr. Tooke, "is the release of the industry and skill of the country as rapidly as possible from the pressure of every fiscal burden which operates as a hindrance;" and he adds, "our progress consists in augmenting the ability of the country to bear its burdens; the sooner we remove oppressive burdens, the more rapidly shall we arrive at that point; our first duty is to remove fiscal oppressions." There is no greater fallacy than the opinion held by many of the propertied classes, that because these duties are mainly paid, in the first instance, out of wages, that, therefore, they are to that extent relieved of taxation. If the teachings of political economy are true, if the history of the last twenty years is not a fable, there is nothing more certain than that property cannot escape the burden of unjust taxation. The labourer may be crushed by its weight, but there is a certain Nemesis, which avenges his sufferings upon the holders of property. The diminution of the demand for commodities lessens the demand for labour, capital is unemployed, it has to seek hazardous investments, rents are diminished, property is depreciated in value, profits are reduced, pauperism and that state of semi-pauperism in which so many of our population exist increases, crime is developed, and thus holders of property have to meet a vastly increased expenditure with diminished resources. The nobleman who threatened to sell his estates and leave England if the corn laws were repealed, has not done so; nay, the income tax which he has paid in order that partial free trade might be inaugurated, has been a profitable investment.

Such would, in a much greater degree, be the case were all indirect taxation repealed. The direct tax he would have to pay would be a far lighter burden than that now falling upon his property through our violation of the laws of political economy, while by the same process his resources would be vastly increased. This truth was most forcibly enunciated by the late Sir Robert Peel in 1834, when, speaking on a motion introduced by Lord Chandos on agricultural distress, he said, "We have this admission from the noble lord, that the agricultural interest is so intimately connected with the commercial and manufacturing interests, that the best mode of advancing and improving it is to extend our commerce and manufactures by opening new markets; by removing those regulations, as well fiscal as political, which interfere with or impede their extension. These observations are very just. The agricultural classes

would be benefited by the extension of our commerce." Nor would the landed interest alone reap the fruits of such a policy, extending commerce would require increased capital. Holders of every description of property are undoubtedly restricting the field for its profitable employment, and thereby losing far more than the amount for which they are contending. It has been a chronic complaint in this country, that there is no profitable field for the employment of its large yearly accumulations of capital. Hence there is a periodical overflow into visionary and unprofitable foreign undertakings; while all the time there is at home an unlimited field for profitable employment, were we only wise enough to sweep away the obstacles of customs and excise.

In a recent number of the *Economist*, it is estimated that the clerk occupying a position immediately above the artisan pays in taxation 3*s.* in the pound on his income. According to data obtained from co-operative stores, the artisan pays in taxation and the enhanced prices of commodities consequent thereon, at least 4*s.* in every pound of income. There can therefore be no additional hardship in taking from both these classes directly, 3*s.* in the pound of their earnings. Nor can there be any injustice in taking the same proportion from the more wealthy classes. In the same article the tax-paying and non-tax-paying income of the country is estimated at above £560,000,000; 2*s.* in the pound upon this amount would yield £56,000,000, a sum equal to the produce of customs, excise, income and assessed taxes. Such an income tax would be less costly to the taxpayer than are customs and excise, and would at once enable us to sweep away every fiscal hindrance to trade, manufactures, and employment. It would vastly increase our prosperity, and by the natural unrestrained growth of our resources, would in a short time materially reduce the rate of assessment. There is no class of the community that would not benefit materially by the change. Whatever objections may be urged against such an income tax, there is no doubt it would be far less oppressive than any indirect tax. It would fall more lightly on the most heavily and unfairly taxed portion of the community, and would benefit property holders materially by the improvement it would cause in the value of their property. Further, it might be adjusted to various species of incomes by the adoption of the principle of capitalisation as advocated by the late Mr. Hume and Dr. Farr, or by a different rate upon different classes of incomes.

In the United States, although our precedent has been followed in raising the national revenue during the present war, the whole of the State taxation is levied upon property. In Massachusets it amounts to $\frac{3}{4}$ per cent. upon real and personal property, in New York upwards of 1 per cent., and in Louisiana $1\frac{1}{2}$ per cent. The capital of this country was estimated some years since at £7,000,000,000 sterling, the annual rate of increase is stated at £100,000,000, so that it is now at least £8,000,000,000. A tax upon this sum of $\frac{3}{4}$ per cent. would yield £60,000,000, an amount certainly sufficient for the most extravagant expenditure. Here then

would be a direct tax upon property in whatever shape. Under its operation every man would be perfectly free to use his capital as he thought best, the State would not interfere with his trade or his gains, would leave them alone during the period of accretion. When his profits became capitalised they would be taxed, and then only; industry, skill, and enterprise would be perfectly free from the hindrances, vexations, and restrictions, which are the certain accompaniments of other forms of taxation. This would be a direct tax raised, as recommended by the late Lord Jeffrey, on property; a tax the justice of which, he observes, "common sense and common feeling impresses upon all men, out of which no logical refinements will ever drive them."

During the reign of William III., more than half the expenditure was provided for by the land tax. This, although the property of the country has increased in value at least twenty-fold, now yields but a trifle more than £1,000,000. It was accepted by the landholders at the rate of 4*s*. in the pound upon the value of their estates, as a substitute for the feudal services and exactions to which they were liable. By a shameful perversion of legislative power, its valuation was subsequently fixed in perpetuity; no matter what may be the increase in value of their estates, it remains the same. The burden of taxation was thus thrown upon the industrious and unrepresented classes, and during by far the larger period of modern history, property has escaped any but the most fractional direct payment for the protection of the State. Clearly then the people have a just claim that this tax, which has never been repealed, which is still the law of the land, but has been shamelessly perverted from its original intent, shall be strictly enforced, according to the letter of the original enactment, should no other means of reaching property be deemed possible.

Such are some of the methods by which it would be possible to raise a revenue by direct taxation. We do not present any of them as perfect schemes founded on absolutely correct data, these being only obtainable by the Government, on whom will naturally devolve the duty of propounding a scheme, when the public voice shall demand the substitution of direct for indirect taxation. Any one of them would be infinitely preferable to the cumbrous, costly, and impolitic method of customs and excise. There is no objection that can be urged against any of them that does not apply with equal or greater force to the existing system. Their great superiority consists in the fact that none of them interfere with the industry of the country, with the extension of its trade and manufactures, and the prosperity of its agriculture.

It may, however, be objected that this change is too vast and comprehensive to be undertaken at once in its entirety, that we must proceed slowly, gradually, and with caution. To meet this view we would urge that the next measure of fiscal reform should be the liberation of sugar—which Mr. Gladstone describes as, after corn, the second necessary of life—tea, coffee, corn, currants, figs,

raisins, wood, timber, and those "other articles," which are taxed because sugar, or some other taxed commodity, enters into their composition, from taxation. To effect this important change, it would be necessary, unless we are able to reduce our expenditure, to increase our direct taxation by £13,000,000. A tax on income or capitalised incomes or property to secure this result would be, contrasted with these imposts, a comparatively trifling burden; nay, such would be the stimulus given to trade and employment, such the increased value bestowed upon property, that it would be rather a profitable investment than a tax. These results we cannot more forcibly state than in the following extract from a pamphlet issued in 1859, by Mr. Edmund Potter, M.P.:—"Remove the whole of the customs duties, except those on tobacco, wines, and spirits—extinguish them in one swoop, and you would advance this country both in a commercial and moral sense, to an extent hardly appreciable. We should become the holders of the surplus stock of the world in tea, sugar, corn, &c.; this would concentrate more and more the capital also; we should have a security as the world's bankers, and a controlling power which would do much to balance the non-productive one of any foreign standing army; we secure our power also over the mercantile marine of the world."

We are frequently told by public speakers and writers of the "elasticity of the revenue;" it is regarded as something wonderful that we repeal customs duties and the revenue from that source increases. It is not however the revenue which is elastic, but the resources of the people; there can be no inherent vitality in the revenue. By remissions of indirect taxation the condition of the people is improved, taxed articles are consumed in greater abundance, hence the revenue increases. What then is the legitimate inference? Remove these taxes entirely, make your trade perfectly free, the condition of the people will then be ameliorated to an extent hardly conceivable. The difficulties of direct taxation will then vanish, for the revenue will be drawn from a basis so wide as to form but a small charge upon the property of the country, while our reserve strength will be such as to enable us to meet with comparative ease any temporary emergency.

The real question for decision is that put before the country by the Chancellor of the Exchequer in his remarks upon the income tax when he delivered his last financial statement. Practically his question was "Will you go forward in the path of fiscal reform and commercial progress, will you go backward, or will you remain stationary?" In connection with this question there is an observation of Adam Smith's well deserving our attention; it is "That the progressive state is the only really healthy state; the stationary dull, the declining melancholy." During the recent debate on Mr. Disraeli's motion of censure, it was to the fiscal policy of the Government that Lord Palmerston pointed with the greatest confidence; upon this and upon its marvellous results he mainly relied for a verdict approving his administration. Can we then hesitate as

to our reply? Shall we not say with one voice, "Go on in the path of commercial progress, remove every impediment to the development of commerce, every hindrance to national prosperity; carry on the work to its only legitimate and final end; you will thus earn a fame unexampled in the annals of your country's history; you will, moreover, enjoy the proud consciousness of having contributed more fully than any other statesman to bring plenty, contentment, and happiness to the homes of the entire mass of your countrymen?"

That England should in this respect set an example to the world is our earnest wish; we fear, however, that unless we quicken our pace we shall yet lag behind. In Belgium the question has been referred for consideration to the *Conseil Superieur*, an assembly comprised partly of representatives of the chambers of commerce and partly of Government officials. When will our chambers of commerce rightly appreciate the importance of the subject, and devote to its consideration some portion of the time they now occupy with comparatively trivial questions? Already two of our colonial possessions have perfectly free trade. Singapore has been raised in our own day from an obscure fishing village into a great commercial port simply by making it a free port untrammelled by the hindrances and vexations of the custom house. In the west Vancouver's Island has followed this example, and in three years has increased its imports of British goods from 458,511 to 2,000,000 dollars. Nor is this all, perfect free trade, which, whatever it may mean here, means in Vancouver's Island the absence of customs duties, is diverting the course of trade. Formerly, all their supplies of goods were received from San Francisco; now, most of the articles imported are procured direct from England, and a considerable demand has arisen for them in San Francisco, which is supplied from the port of Victoria, Vancouver's Island. It is not, then, to be wondered at that the inhabitants of that colony have decided to retain their free-port system. Can England hesitate longer as to its adoption here?

We desire a system of taxation which shall, as far as practicable, fulfil the conditions laid down by Adam Smith, conditions which are in every respect violated by duties of customs and excise. These may be shortly described as equality of taxation in proportion to means; certainty as to the amount and the manner of payment; the time and manner to be most convenient to the taxpayer; the amount taken from the taxpayer to be as little as possible over the amount it brings into the public treasury; the mode of levy and collection to interfere as little as possible with trade, manufactures, and employment, either by increasing the capital necessary for commercial operations, limiting the extension of commerce, driving capital into unprofitable, hazardous, and ruinous occupations, or interfering needlessly, vexatiously, and extravagantly with the various processes of manufacture. These conditions are compatible only with direct taxation.

At the meeting of this Association in 1858, after a lengthy dis-

cussion in this Department, under the presidency of the late Sir James Stephen, the following resolution was unanimously adopted :—

"That it be a recommendation to the Council of the National Association for the Promotion of Social Science, to appoint a sub-committee to consider the whole question of direct and indirect taxation, in its bearing upon the moral and social condition of the people, and to report to the next meeting of the Association."

There is no object sought by this Association that would not be immeasurably furthered by the solution of this important question. Mental, moral, and social elevation, to have any sure foundation, must be based upon material prosperity. Remove these obstructions to free industry, there will not then be a single inhabitant of these isles within whose reach comfort and prosperity will not be placed. The tide of emigration might then be stayed. England, the workshop, the mart, the exchange of the whole world, would find profitable employment for all its population. Nor would these advantages be ours alone ; as the principle of free exchange prevailed, every community would share its blessings. We cannot better conclude, than by the following quotation from a speech delivered by Lord Palmerston in the House of Commons in 1842 :—" Why is the earth on which we live divided into zones and climates ? Why, I ask, do different countries yield different productions to people experiencing similar wants ? Why are they intersected with rivers, the highways of nations ? Why are lands, the most distant from each other, brought almost into contact by that very ocean which seems to divide them ? Surely it is that man may be dependent upon man. It is that the exchange of commodities may be accompanied by the extension and diffusion of knowledge—by the interchange of mutual benefits engendering mutual kind feelings—multiplying and confirmnig friendly relations. It is that commerce may freely go forth, leading civilisation with one hand and peace with the other, to render mankind happier, wiser, and better."

AGRICULTURAL SECTION.

Agricultural Gangs, their Influence upon the Morals and the Education of the Young. By the REV. THOMAS HUTTON, M.A.

AGRICULTURAL gangs are a form of organised labour which have chiefly sprung up within the last twenty-five years. They appear to be mainly confined to the district of the fens. There are gangs of women at Sheppey, Spalding, Hull, New Romsey, and Lewes

which are the cause of a fearful amount of infanticide, illegitimacy, and immorality of every kind. But we wish to speak more especially of gangs of children, which prevail in Lincolnshire, Cambridgeshire, Huntingdonshire, and parts of Northamptonshire.

These gangs consist of children of both sexes, numbering from ten to fifty or sixty in each. An undertaker hires them from the parents, and then contracts for them with the farmers, at so much per score, or at so much per acre. The ages of the children range from five to sixteen years. They are employed in weeding, "twitching," hoeing, thinning mangolds, and in almost all kinds of farm labour. They go from one parish to another, and they have frequently to walk several miles to their work. The system appears to be rapidly extending over the fen country, and its influence upon the schools and upon the morals of the young has become a matter of the gravest importance.

The undertakers, or overlookers, or gang-masters, or drivers, as they are variously termed, belong to the labouring class. They do not appear to be very remarkable for kindness and benevolence of disposition, and many of them have a character for cruelty and insobriety. The system itself, indeed, seems calculated to foster a harsh and overbearing manner towards the young; their main object being to get as much work out of the children as possible, and at the cheapest rate, in order that they may be the better remunerated themselves. It is quite obvious that children of tender years employed upon such a system, and frequently in all weathers, are exposed to the most serious injury to their health, and this is manifested in the stunted appearance of many of the men. Their early withdrawal for eight or nine months in the year, brings the system into direct antagonism with the cause of education, and in many instances the influence of the school is reduced almost to a nullity.

The following is a brief description of a gang parish, where the system has been in operation, though not to its present extent, for twenty years. The population is about 3,000. Here all the farmers encourage the gangs. There are eight gangs at work, containing about forty children each; five of these are "mixed gangs" of boys and girls; two consist entirely of girls; and one is formed of boys only. During the three winter months, the average attendance at school is 100 boys and 80 girls, but when the gangs are in full employment, these numbers are reduced to 40 and 20 respectively; so that 120 of the children may be said to belong to the gangs. The association of the younger children with the hardened, wicked, and corrupted boys and girls of fifteen and sixteen years of age is described as most demoralising. Their language is awful; vice and immorality in every form are the fruit of the system. These children may be frequently seen on a Saturday night, as late as ten o'clock, going from one beershop to another, in search of their driver, for their week's wages. The educational status of this parish is represented to be 50 per cent. lower than that of the manufacturing districts of Lancashire and Yorkshire. The younger children may acquire a small smattering of instruction during the three winter months, but

the gang is, to all intents and purposes, their real educator. The influence of the one is only like a feather in the scale compared with the influence of the other. Now the country has happily decided that the education of the people is absolutely necessary to the welfare of the State, and, therefore, the demand for juvenile labour in the field should not be permitted to ignore this necessity in the agricultural, any more than in the factory, districts. Hence, the important question arises whether the gang and the school can exist together, without the effect of the one neutralising and destroying the effect of the other. Now, at the outset, we fear we must subscribe to the necessity of the organised labour of the young in both cases, whether agricultural or manufacturing; still, it may fairly be considered an open question, whether in the former case, this organised labour should take the form of the gang system; at any rate, this system has not been extended to the country generally, and we are not aware that there is anything so peculiar in the cultivation of fen lands as to make them entirely exceptional in this matter. Labour is the life-work of the poor, and we shall be wrong if we make education antagonistic to this; we must endeavour to reconcile the two as well as we can, and adjust in the most practicable manner the conflicting claims of each. If the school, however, is to exercise its legitimate influence, we are fully persuaded that the gang system must undergo important modifications; otherwise, in the course of another generation, the marsh lands of England will be reduced to a state of ignorance and barbarism utterly disgraceful to a Christian country. The material progress of the age, and the open competition with foreign markets, under our free trade policy, tend in an important degree to expose the children of our agricultural poor to the danger of being turned into machines for the production of wealth, to the neglect of all higher and more important considerations. And we are not aware that farmers have been more distinguished for their greater attention to those higher considerations than the manufacturers of the north of England. The inspectors of schools do not speak of them as a class who are specially remarkable for their great liberality in the cause of popular education, or for any very deep interest which they manifest in the Christian welfare of those whom they employ. To make, however, any direct charge against them as a body, for anything like total indifference to such matters, would be both unfair and unjust. They have their special faults and shortcomings, like other sections of the community. All we contend for is that the risk of social neglect towards the young is as great among farmers as among manufacturers. And, therefore, that the claims of the children of the agricultural poor to the attention of the statesman and the philanthropist are quite as strong and as urgent as the claims of factory children.

The State has already deemed it right to recognise the claims of the latter by interposing its authority for their protection; not, be it observed, for the prevention of juvenile labour, but for its proper regulation, so that moral claims should be duly respected. The

success of the Factory Acts has been so marked and decided that its ablest opponents have felt it their duty to make a recantation of their opinions regarding it, and its principle is now being applied to other trades of the country. So far, therefore, as precedent goes, no argument can be used against its further extension to the agricultural districts, and the only questions we have to discuss are the reasons for such extension. The demands of labour must be made to harmonise with the school in the country as well as in the town. This point will at once be conceded, and therefore we need not stop to consider it. Although we are not favourable to legislative interference with the freedom of labour except in cases of clear and unavoidable necessity, yet we cannot understand why such interference should necessarily trench upon the legitimate claims of liberty, indeed, it is only the systematic violation of those claims which can render it either wise or desirable. With regard to the manufacturing districts this question has been already settled, and settled to the entire satisfaction of the country. But in regard to agricultural districts it may be urged that the two cases are so entirely dissimilar, that no analogy between the two can be employed for our guidance. But still, we cannot see why the principle of the Factory Acts should be incapable of application to agricultural labour when modified in such a manner as to meet its exceptional circumstances. And as regards its application to the gang system now under consideration, we are not impressed with any insuperable difficulty in the matter. The gang children, it is true, have the three winter months for the purposes of education ; but this must be considered quite insufficient, especially when we take into account all those neutralising influences of the system which have been already alluded to. The gang-master cannot be placed on an equality with the manufacturer or overlooker ; he occupies the same social status as the parents of the children whom he employs, and therefore the personal influence of the one cannot be compared with that of the other. Again, the factory system possesses, of necessity, an amount of order and regularity of great value in a moral point of view ; but this will not apply to the gang system. There is not the same opportunity for the exercise of corrupting and demoralising influences in the factory as in the field. For instance, foul and obscene language cannot be employed with the same freedom in the one case as in the other. And as respects mixed gangs of boys and girls, there are other important considerations which cannot even be alluded to here, but which must present themselves very forcibly to every intelligent mind, as having a powerful influence on the decency and modesty of girls.

Again, factory children as a rule live near their homes, whereas the gang children have frequently to walk a distance of several miles, when they are perfectly free from all control, and are at full liberty for the indulgence of loose and corrupting conversation. Who, that has been in the habit of meeting these children returning from their work, has not had his ears assailed with the most vile and

abominable language? And in addition to all the disadvantages already alluded to, it might be urged that field labour is less suited for girls than factory labour; it necessarily induces untidy and slovenly habits, and undermines that modesty and self-respect which is of incalculable importance in the proper formation of their character. And besides all this, the freedom of field labour unfits them for the restraints of domestic service, and makes them so outlandish in appearance and manner, so rude, rough, and coarse, that respectable mistresses are unwilling to receive them into their service. Thus, the supply of domestic servants is cut off at the fountain-head. In some of the gang parishes it would be difficult to meet with a tidy and respectable maid-servant belonging to the place. And the evil does not stop here; what becomes of those girls during the winter months, when the gangs are not employed? They are to be found hanging about the idle corners of our villages, with lads of the same age, corrupting each other with idle talk, and indulging in the most improper language, at the expense of passers by. And when remonstrated with by the clergyman of the parish, they only laugh in his face, because there is no parental authority at home to support his influence. What sort of wives and mothers can we expect these young girls to make? They enter upon married life ignorant of every domestic duty, and their houses are a scene of confusion, neglect, and untidiness, and the children, of course, are trained up in the same habits; and the husband, deprived of the common comforts of life, is driven to the alehouse of an evening, where he contracts habits of intemperance, squanders in drink the money which should go towards the support of the family, and thereby intensifies the evils we have described in a tenfold degree.

When the gang system is established in a parish, respectable parents of the poor have no choice left them; they must either send their children into the gang or they will find no employment for them at all. They are completely at the mercy of the system, and under its entire control. It is clear, therefore, that we must not look to them for a remedy of the evils in question. Nor can we look with better hopes to the employers; those who sanction and encourage the system are not the most likely persons to reform it.

Mixed gangs of boys and girls are universally condemned by the clergy, and yet they are extensively employed by respectable farmers. We have never heard a valid argument used in defence either of their wisdom or their necessity. Their labour, no doubt, carries with it a present remunerative value, but, in the case of the girls especially, this falls into utter insignificance when we take into account the permanent injury that is done to their characters for life. It is like a man who, not satisfied with the interest, is constantly drawing upon his capital as well, in order to meet current demands. This deterioration of character affects the community at large, but the employers' interests are the first to suffer from its consequences—and if farmers were sufficiently alive to their own welfare they would never sanction such a debasing and demoralising system.

Public opinion has great power, and it has not been silent in this matter, but we do not think it possesses sufficient influence for the suppression of the mischief. We have more hopes as regards owners of property. Special clauses might be inserted in leases to meet the evil, but we are not aware that any effort of this kind has been made except in very rare and isolated instances. All these points have been repeatedly considered, still the opinion seems to be gaining ground that nothing short of a legislative enactment will meet the case.

Mixed gangs appear to be not only indefensible but unnecessary, and therefore we would submit that they ought to be suppressed.

Children of tender years ought not to be employed in gangs at all. If some half-time system could be adopted, embracing these conditions, and not bearing with undue stringency upon the most busy seasons of field labour, we are persuaded that such a measure would confer unspeakable benefit upon the farmers themselves as well as the labouring classes, to say nothing of the general welfare of the country at large.

ECONOMY AND TRADE.

President.

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Local Secretaries.

ROBERT HOLTBY, ESQ. | ALDERMAN JAMES MEEK.
J. S. ROWNTREE, ESQ.

In this Department are considered the various questions relating to Economics, Social, Political, and Commercial. The Department also collects information relating to production, manufacture, and trade.

SUMMARY OF PROCEEDINGS.

The following special questions were discussed in the Department:—

1. What are the effects upon Trade of the existing Laws of Maritime Warfare?

2. Is the granting of Patents for Inventions conducive to the Interests of Trade?
3. In what respects and to what extent should Government Security and Supervision be applied to the Provident Investments of the Working Classes?

A Section of the Department dealt with Agricultural Questions.

In addition to the papers printed in the foregoing pages, the following were read in the Department:

"The National Exodus: its Consequences and Results." By John Yeats, LL.D.

"Colonisation for the Age: an important Social Science element." By Thomas M'Combie.

"The Argentine Republic as a field for British Emigration." By Graham Gilmour.

"Houses for the People, and how to provide them." By John Holmes.

"The Principles of Association applied to the Dwellings of the Poorer Classes." By W. Westgarth.

"The Imitable Features of the Railway Benefit Building Society of Euston." By G. J. Holyoake.

"The Proper Sphere of the Savings Bank, the Penny Bank, and the Post Office Savings Bank, as illustrated in the City of York." By W. W. Morrell.

"On Public Dining Halls." By James Freeman.

"Lancashire Public Works." By Robert Rawlinson, C.E.

"The Domestic Servant of the Present Day." By James Colston.

"The Importance of Apprenticeship." By T. H. Hartley.

"The Temptations and Dangers to the Youth of both sexes in London and our Great Cities." By W. H. Yates, M.D.

"Agricultural Co-operation." By John Gurdon.

"On the obtaining of good Plans for Agricultural Cottages, and the Political and Social bearings of the Subject." By C. W. Strickland.

"Cottage Investments." By the Rev. F. O. Morris.

"On Statute Hirings." By the Rev. Canon Randolph.

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*What are the Effects upon Trade of the Existing Laws of Maritime Warfare?**

The paper by Mr. Henry Ashworth will be found at p. 594.

DISCUSSION.

Lord BROUGHAM: For my own part, I am against piracy in all its forms, and certainly against the fitting out of private vessels for privateering against an enemy; for such a system, I say, is in the nature of piracy. The only thing I have ever heard said in its favour is, that on shore the Government forces uniformly interfere with private property. Mr. Ashworth seems to doubt that,

* See *Transactions* 1860, pp. 163, 279; 1861, pp. 748, 793; 1862, p. 896; 1863, pp, 851. 878, 884.

and to think that of late years they have confined their depredations to public property. Now, I am afraid I cannot agree with that. I do not think that is the course that armies take on shore. But the difference between the Government vessels' and private vessels' plundering is very great; and the consequences of privateering I believe to be as bad as possible for the morals as well as the material interests of a country.

Mr. HASTINGS: In reference to what has fallen from Lord Brougham as to the distinction between attacking private property on land and the system of seizing indiscriminately private property at sea; it is perfectly true that armies in land warfare do very often lay hold of private property and commit a great deal of pillage. We have only to go back to the lamentable war in Denmark for an instance; but at the same time that system of wholesale pillage was condemned by the voice of Europe. And we know that some of the most celebrated generals—and, above all, the Duke of Wellington—restrained their armies from committing acts of pillage, and never allowed them to take private property on land except what was absolutely necessary for the use of the army. The way in which we carry on belligerent operations on an enemy's property is a great evil; but an organised system—if carried on with the knowledge and sanction of Government—of seizing private property in all instances and regarding it as involved in war, is a worse evil. That is the system against which Mr. Ashworth's argument is levelled, and which, in the interests of humanity, ought to be done away with. Not only do merchants and shipowners suffer during war, but they suffer also, though to a less degree, during peace. I know a case in point that recently occurred. I won't give the name of the shipowner; but he informed me that at the time when hostilities broke out between France and Austria in Italy —and when it was supposed that this country would be involved in war on one side or other—he had a ship in a port in India; and the Oriental Bank telegraphed to their agents there to prevent goods that were hypothecated to them, being shipped in British bottoms. The consequence of this was that he had to accept £1 less per ton than he would otherwise have obtained. There is no doubt that war would operate very injuriously on British commerce—that in the event of war our mercantile flag may be driven from the seas; but even when there is a European war in which there is a probability that this country may join, the mercantile marine must of necessity suffer. However rigidly we abstain from war with other nations, there is no doubt that we suffer much, even in times of peace, from the dread of war. The Foreign Office itself knows very well the effect which our being mixed up in diplomatic disputes has upon commerce, and they are therefore obliged to be most chary, and to refrain from speaking out as they might otherwise do. It appears to me that the present system of maritime war is destructive of our moral influence, and injurious to our commercial interests.

Mr. RATHBONE: We find it announced in the *Times* of March 19, 1813, that, according to *Lloyd's List*, from August 4, 1812, to March 9, 1813—or about seven months—513 vessels had been taken by American ships. This was at the rate of 850 vessels a year; yet the destruction that the "Alabama," and other vessels have committed does not amount to a larger number than 85—so that during this period of four years American commerce has been preyed upon to only about one-tenth the extent that English commerce was preyed upon in 1813. It has often been said—and it is all very well to say—that we should sweep away any navy that tried to obstruct our commerce. It is extremely easy to sweep away weak vessels by stronger ones at sea if you can catch them or get sufficiently near for the purpose. The shipowners, as a body, are ready to suffer whatever may be necessary to uphold the honour of England; they ask no more for themselves than any other class of the community. The cotton manufacturers of Lancashire have shown, during the recent times of distress, that they are willing to suffer when there is any danger to the honour of England; and I think I am not saying too much for the shipowners, as a body, when I say that they are willing to do the same. But, if you destroy the mercantile power of England, you destroy the naval power of England. You cannot, I believe, Sir, maintain a navy —a marine navy—of any great power, without a mercantile navy. That is a fact of which the French are well aware. It has also been found to be the case in

America; for there they have the greatest difficulty in furnishing the men that are required for the navy. I will not detain the meeting further except by alluding to one point touched upon by Mr. Hastings; and that is that the shipowners may suffer a great deal from dread of war. When a foreign minister speaks a word for an oppressed people—when he speaks in a tone that may lead to war—it may occasion a serious loss to the shipowner; and then, in the event of war, the loss indirectly and directly together, is greater than any one would imagine. I think it will be a great misfortune, if we continue to labour under those great disadvantages.

Mr. Boult: I believe that it is quite impossible to exaggerate the evils that may arise from this country being engaged in any maritime war. I wish that the Foreign Office was made a little more alive to that fact, and that they could see their way to adopting the policy of abstaining from interference in every body's business. I think the best way would be to shut up the Foreign Office altogether, to call home our ambassadors, and our consuls with them—for they are of no earthly use—and to abstain from interfering or meddling with foreign affairs. What is the use of making conventions which you have no means of enforcing? With regard to private ships at sea, I admit that there is a great grievance; but how are you to ascertain, for instance, whether the property my ship is carrying is private property? Or how can you tell whether my vessel is not filled with munitions of war? What are munitions of war? Formerly it was, perhaps, much more easy to answer that question than it is now; but suppose that I am carrying blankets—a very pacific cargo, one would think—but suppose that these blankets are intended to make horse covers for cavalry, and coverings for soldiers on the field of battle? In that case, I would say they were munitions of war of a very important character. These are very difficult and nice questions. My ship might be taken at sea, brought before a prize court that would have no hesitation in pronouncing that the cargo consisted of munitions of war, and declaring that the vessel had been legally and properly seized. In that case I should be little the better for any treaty made with reference to such occurrences. I believe, then, that if we do go to war, we must take all the consequences; and there is no use in playing with the question. War is a resort to physical force—a setting aside of the law of reason, justice, and equity, and of every law to which men under ordinary circumstances submit. Let us keep the peace, unless our national interests are so involved that we are absolutely forced to make war. Let us never go to war except for a real purpose; and then let us go with our eyes open, fully prepared to take the consequences and face everything.

Mr. Edgar: What we are considering now is the system of international maritime law, by which private property is seized or destroyed at sea. It is asked, What is the necessity of making stipulations which we have not the means to enforce? I beg to submit that we have the power to enforce such a system of international law as that which has been proposed. With reference to the difficulty suggested by Mr. Boult as to carrying into effect the immunity of private property, I think that if such immunity were recognised by international law, it would be protected by prize courts in the same manner as the property of neutrals is under the system which now exists. No difficulty would arise with respect to contraband of war more than under the present law. The question of contraband of war is a very difficult question, but it is one on which the prize courts are forced to adjudicate under the present system; because when neutral ships are found carrying goods contraband of war, they are captured, and brought before these prize courts, who decide according to the rules of international law. It is a simple question of evidence, and I believe that none of the great powers of Europe would venture to break faith in such circumstances. With regard to the idea that war should be made as bad as possible, that every means of warfare are quite fair, I say if you are to adopt such a principle as that, where are you to stop? If it be right that war should be made as bad as possible, why not kill everybody, destroy everything you can find, and have recourse to the custom that used to be in force for the ravishing of women? I think the view which has been stated by the gentleman who has just sat down, with regard to the foreign policy of the country, although it may have the appearance of truth, is founded on a great fallacy. While it is impossible for any reasonable man to approve of all that has been done in the way

of intervention in times past, yet I think occasions may arise when intervention may be necessary, and the Government should be placed in such a position that it may be able to act in the manner required for upholding and maintaining our own position among the nations of the world. The most formidable argument against abolishing the capture of private property at sea, and blockades, is that we should be thereby deprived of the advantage which our navy gives us as a means of defending ourselves. This I am not prepared to admit. I think there can be no question as to the fact that we depend more upon our navy than we do upon our army, but I am at a loss to know how, under another system of maritime law by which private property would be respected, and blockades abolished, our navy would be less valuable to us. I think the first duty of the English navy is to protect our own shores, and this it would still have to perform, whatever change might be made in the laws of maritime warfare. England is exposed to invasion more than any other country, and it is only in consequence of our fleet that we are able to prevent that; the possession of that fleet is our great security. But there is another function our navy would have to discharge in time of war which ought not to be overlooked. It may be admitted that a great destruction of private property would induce men to sue for peace. But the capture of such a town as Liverpool or Portsmouth would have a much more powerful effect on the feelings of the country, than any destruction of private property that can be imagined. Or suppose, in a war with the United States, that we were to send out a fleet to blockade New York, and that the attempt were successful; that I believe would produce a greater feeling in favour of peace throughout that country than would be excited by any amount of destruction of property. We see how little effect this destruction of private property has had in causing a desire for peace in America; and throughout the whole experience of this country, I believe it has been found that the effect produced on public feeling by the destruction of private property has been very small. Our navy, under the system proposed, would still be of avail to us in blockading and capturing towns, which I believe to be one of the most effective modes of warfare; and it would also have to protect our commerce against lawless attempts, and to enforce the rights of England in distant seas.

Mr. Fisher: The existing laws of maritime warfare, as well as those that relate to warfare on land, are based on the same idea—that it is the right (and some say it is the duty) of states engaged in war to lessen the resources of the country with which they are in conflict. The sooner this can be done, the sooner will peace be obtained. On the land, when a state is invaded, all the property is understood to belong to the state, and therefore no law is required; but as the sea is the common property of all nations, there are prize courts which sit for the purpose of deciding whether the vessels there seized are the property of the belligerents or not, and whether they ought to be confiscated. Suppose that four states enact a new code of laws for maritime warfare. How are these to be carried out? By war; and if war is not made as effective as possible, it becomes a mere farce. We have had a melancholy instance of the way in which treaties are carried out in the recent affairs of Denmark, when three of the European powers repudiated their solemn engagements, and England was left to stand alone as the sole Government who maintained that these engagements should be enforced; and she abandoned the contest because she found that the loss to humanity would be greater if she took part in the war, than it would be if she allowed a portion of Denmark to be severed from that country. Any change of the maritime law must be effected by agreement of nations. And if nations which make such bargains will break them, you have no means of enforcing them except by a general war. If it were possible to avoid being in a state of war at any time, it would be of great importance to the welfare of mankind; but I cannot see how any change in the maritime laws could benefit us, if it still required that the parties to its provisions should enforce them by physical power. We should simply be fettered with regulations that any of them might disregard.

Mr. Ernest Noel: In regard to the question as to what is to be the practical result, for the benefit of the country, of the views propounded by Mr. Ashworth, I think I can give a short answer to that question. We think that there has been a needless amount of suffering brought upon the world by our present system of maritime law; that a state of war interferes, not only with the trade and

commerce of the world, but also with the personal comfort and happiness of the people who compose the various nations of the world, and that it is a great mistake to suppose that this is only a question for merchants, shipowners, and insurance companies. Although the merchants and shipowners may, for the moment, lose, yet this is a question for the mass of the people; because loss to the trade of the country ultimately falls on the consumers, and the comfort of the people is thereby diminished. Mr. Boult has asked us—"How are we to enforce these contracts that are entered into between different nations?" Public opinion has already had a great effect on war. I cannot understand how gentlemen can read the history of the wars of Queen Anne, and those of the present day, without being certain of the fact that public opinion has already had a vast effect upon war; and that that is a direction in which the reformers' efforts ought to be prosecuted. The papers are teeming in England, France, and Germany, with the strongest expressions against the Federal Army, because they are supposed to have caused great suffering to an unoffending population. There is a great feeling in the public mind against those who are the cause of such suffering. Private property is only now taken by our land forces when it is actually necessary to meet the wants of the army itself. There is no such thing now as our army going forth to destroy everything. During the Crimean war, the town of Odessa had batteries to defend it; but, not being a properly armed town, we kept away from it; it would have been, had we destroyed it, a needless destruction. Now we want to influence public opinion on the subject; it is a great power, not in this country only, but all over Europe. Let there be formed an opinion that our present maritime laws cause a needless amount of suffering without diminishing the evils of war. That feeling once established, will form the great fulcrum with which to work; and, from the means of intercourse of one nation with another, I believe we shall feel public opinion rise up in France, and Spain, and Russia, on this subject, which will lead to a vast change in the whole system of war—if we must have war—in Europe. I think, then, that the answer to the last gentleman who spoke is simply this: that by influencing public opinion in this country—and by influencing public opinion in this country we influence it abroad—we may do a great deal; and when there is a general feeling against our present maritime law we shall—without a congress of nations, which is a mere formal thing—be able to carry out the proposal embodied in Mr. Ashworth's paper.

Mr. Jeffrey: The question we are now discussing is one of great importance. I am afraid that the answer to that question must be that the effects of our present law of maritime war are most mischievous and most ruinous. I quite agree in the idea that the defects in our maritime law must be remedied by public opinion. What is the use of talking about treaties and relying upon them? War is a state that knows no law. Law is abrogated, set aside, after the first shot is fired. What is applicable to individuals will be applicable to nations. We remember how great was the pugnacity of the people of this country—that blows generally succeeded words, that individuals often went the length of exchanging shots—that men challenged each other at duels. But now things are greatly changed; and I only hope that the same influence will be exercised on nations, in respect of war. I am afraid that Mr. Ashworth's paper expresses more his hope than his judgment of possibility. If a code of international laws were brought successfully into existence, there is no international police to enforce them when violated. I hope, then, that this discussion will conclude in the passing of a resolution that non-interference in the affairs of other nations is the true policy of this country. Let us mind our own business; and that only. Let the nation, if you will, stand isolated in this position, and treat the affairs of other nations as it would those of private individuals. I believe this would be one great means of securing peace in the world; and at the same time we should take care to provide that, in the event of our being insulted or oppressed, we should be in the position of being able and ready to defend ourselves.

Mr. Ashworth: In the course of the discussion I perceived that one portion of those who have spoken to the subject, have placed a high value on national honour. That is no part of the subject with which I have to deal; and when I brought the paper before this Economy Department, I did not imagine that national honour entered into the economical part of the question. I was only

prepared to hear a defence of the present system of maritime law, or the difficulties pointed out that might arise in the event of our going to war with any other country. We have seen that the Confederate States of America have inflicted considerable damage on the mercantile marine; and it has been urged that this was done in violation of maritime law. This was the reason why the "Florida," and other vessels, had been called privateers. But it may be shown that they are not privateers, and that all that has been done has been done in accordance with the terms agreed on at the Paris Conference of 1856. It is quite easy to conceive what would be the effects on the trade of our country, if we had several "Floridas" carrying the Chinese flag and paying occasional visits, as has been recently spoken of, to the Mersey and the Thames, and other ports, for the purpose of preying upon our commerce. A small number of such vessels could impede our commerce very much. It was said that this might have been done, had we gone into the Danish war, and would it not therefore be wise in us to guard even against the possibility of this? And for this reason, we ought to look seriously at the present state of our maritime laws. The circumstance of the cotton manufacture being dependent so much for its success on the raw material, shows us that the failure of that supply—if it were scarce or dear—must necessarily create much suffering. Moreover, Mr. Caird, M.P., and some of the other gentlemen who are accustomed to study the statistics of food, have ascertained that the proportion of foreign food we use, is something like one-half of all that we consume. And if you take into account the flour, rice, and other articles, you will at once come to the conclusion that it is not at all impossible that one-half of all we consume is foreign. And just consider then, what would be the effect if these supplies were to be interrupted by such vessels as the "Florida" and "Alabama." In the course of the discussion something was said in regard to armies destroying private property on an enemy's territory. Now, what I think on that part of the subject, is that it is right, and proper, and just, that in the case of war, whatever is required for the use of the army, for its subsistence, should be taken from the farmers or from wherever it presents itself; but I have the authority of a speech made by Lord Palmerston for saying that the destruction of private property by sea or land has not been effectual in putting an end to the duration of war. The proposal of the Manchester Chamber of Commerce I have now placed before you as intelligibly as I can; and in conclusion I have just again to ask your attention to the important question, whether it is economical or wise that the present system of maritime law to which I have alluded, should be altered, and whether we should not, so far as possible, facilitate the alteration of that law.

"*Is the Granting of Patents for Inventions Conducive to the Interests of Trade?*"*

DISCUSSION.

Mr. Edgar: When this subject was fixed upon by the committee for discussion we were in the expectation of seeing the Report of the Commission on the Patent Laws before this time, and it struck us that a paper on the report would be a suitable introduction to the discussion. However, the report has not yet appeared, and we cannot, therefore, bring the question forward in that way. The committee, I may also state, had asked Mr. Hawes, Chairman of the Council of the Society of Arts, to prepare a paper on the question, but, from having met with an accident, he has been unable to do so, and the discussion must now be raised without a paper, and simply on the question as set down in the programme. That question does not ask us to consider what may be the rights of inventors, but simply what the effect of the system of patents is upon trade. I do not intend at present to state any opinion on the point we are now to discuss, but I am anxious very briefly to allude to the history of this question during the last few years. We all know that about fourteen or fifteen years

* See *Transactions*, 1858, p. 147; 1859, pp. 237, 272; 1860, p. 288; 1861, p. 803; 1862, p. 884; 1863, pp. 818, 830.

ago there were very great complaints of the law as it then existed. The general complaint then was as to the very great expense involved in obtaining patents, and the obstacles which were thrown in the way of inventors. There was a good deal of inquiry at that time, and a select committee was appointed which took evidence on the subject; and in consequence of the facts brought out in that inquiry the Patent Law Amendment Act was passed. The provisions of that Act, as we all know, were entirely in favour of inventors; it reduced the fees, and gave very considerable advantages to patentees. Since that time the number of patents has so very much increased in consequence, that the complaint now is of rather a different kind. Instead of the grievance now being that there are great obstacles thrown in the way of inventors, it is complained that there are too great facilities given to inventors. In consequence of these facilities patents have been multiplied to an enormous degree, and the question therefore is, whether any remedy can be applied, or whether the whole system ought not to be swept away. I do not wish to suggest anything in the way of remedy. I will only say that I think the question of how the present system can be amended is one not easily solved; and one fact which shows that conclusively to my mind, is the circumstance that the patent commissioners have had very great difficulty in agreeing to their report. I think that commission has now been in existence for more than two years, and considering who are its members, and especially that Lord Stanley is chairman, we may be sure that no amount of zeal, industry, and intelligence would be wanting in the matter. I am glad to be able to say that we have several gentlemen present who are very well acquainted with the question now before us, and who will state their views in the course of the discussion. I understand that Mr. Webster is in possession of the views of Mr. Hawes, and that he is prepared to address the meeting in explanation of, and in opposition to, those views.

Mr. Thomas Webster: I did not intend to have commenced this discussion, but in consequence of the accident that has happened to Mr. Hawes I have agreed to lay his views before the meeting, and to state my opinion in regard to them. In the discussion of this question we shall not be able to lose sight of certain of the other questions manifestly involved in it. Following out that view, I would ask what we mean by the interests of trade? I apprehend that it is the true interest of trade to cheapen production, to save labour, to extend markets, and to reduce the price of the article. Now, are not new inventions the very means by which all that is to be done? Is not invention a great means of promoting the interests of trade, consisting as it does of new and improved processes and machinery, and in the adaptation and application of principles to useful purposes? Mr. Hawes and others state that the subjects of patents are now practically theories and principles, and that the patent law has been so interpreted that you may get a patent for an intangible thing of that kind. That is a total misconception of the patent law. You cannot have a patent for a theory or an idea. It is not an invention, in the strict sense of the term, unless it be such an application or adaptation as results in a new manufacture cheaper and better than there existed before. A great deal of misconception arises from confounding the real distinction betwixt discovery and invention. For instance, Mr. Hawes in a very able paper in which he speaks of the original discoveries of the gas products and the new dyes, says that Professor Faraday and Mr. Hofmann discovered them. Now they did not discover the dyes, but they discovered certain properties or substances out of which the dyes were made. They made discoveries in the strictest sense of the term, such as could not be made the subject of the patent law. This distinction will be seen at once. Now, following out that distinction, which I think leads to accuracy of language, and therefore is not immaterial, you have, in point of fact, by invention created things which formerly had no existence. They are absolute creations. You create a new substance. You have thus a clear distinction betwixt those things which are and which are not the subject of patents, because discoveries—things which exist in nature—can in no respect be the subject of patents. The principle must be applied so as to present it in a useful product in the nature of a manufacture. Now the law is perfectly well understood from the oldest times. The oldest

cases say this, that anybody that brings into the realm a new trade, or a new engine tending to the furtherance of a trade, shall have a monopoly patent until "the subjects," or the public, shall have learned the same. This has been extended to processes whereby any result of industry is obtained. Now if this result is not obtained the public are not benefited, and the grant is invalid. So that if the patents granted are properly granted—if they are granted for things which are the subject of valid grants—utility is an essential condition. So much is this the case, that in many recent cases the question of utility has been a compendious mode of trying whether the patent was valid. Now in answering the question before us, I say that patents for inventions are not properly granted unless they are useful, and the test of utility is that by means of the invention you are enabled to do the same thing in a cheaper and better manner than you could do before the invention—and thus diminish the cost of production, and therefore the price. It is further said by Mr. Hawes and others that the granting of patents is inconsistent with the principles of free trade. Mr. Macfie has put this forward very prominently in his pamphlet. He says, that in Switzerland, and other countries, you have no patents, and that you may go and establish a manufacture there, but cannot bring it back into this country, if it be the subject of a patent. Now, there is no doubt that, theoretically speaking, that view is a true one. But is there any real substance in that objection? Can any instance be pointed out in which the existence of the patent laws in any country has practically prevented the introduction of a manufacture? I think that the objection involves the fallacy that an existing trade can be the subject of a patent. If the trade, for which a patent is asked, be an existing trade, it cannot be the subject of a patent at all. But with regard to the introduction of a new trade, or a new machine, or a new process, which, if it be an improvement in a trade, is practically *pro tanto* a new trade, the theory of the patent is this, that it is granted for a limited time, until the public may be instructed in it, such instruction of the public being only the informing them how to use the invention. But everybody who has any experience of inventions, must know that in the majority of cases, there is no return for years. I say, therefore, that the objection made to patents on the ground that they are contrary to the principle of free trade, is a fallacy, because the object of the patent is to create a trade; and as soon as the trade is created it becomes free, and the trade having been created, it can in no respect be the subject of exclusive privileges. But, it is said—and Mr. Hawes has very properly put that prominently—that there are various abuses under the existing system of patents—such as the number of patents and the cost of litigation—and he asks whether the system is worth all the expense to which it subjects all parties. Now, I think, it ought to be borne in mind that the system under which we are now living is the system established in 1624, when Manchester was a hamlet, and when Birmingham was hardly known, and when four days were taken in the journey from London to York. Except so far as modified by Lord Brougham's Act, and the Act of 1852, the system remains the same as it was in 1624. But that very Act of 1852 has introduced other evils, because the remedial measures of that Act have never been carried out; and although the British Association, and the Law Amendment Society, and this Association, have laboured almost incessantly to get these evils corrected, yet they have been hitherto unsuccessful. But I think there is no doubt that those remedial measures, which were most amply provided for in the Act of 1852, will now be adopted without much further delay. The prominent objections in the paper of Mr. Hawes, and of those who agree with him, are what they call the obstructiveness of patents, and their abuse, and the expensive litigation to which they give rise, and the consequences to trade resulting from these circumstances. Now I deny the obstructiveness of patents, and I ask for instances in which patents have obstructed improvement. The applications for patents may be taken as 3,000 a year; but of the 3,000 only 2,000 are prosecuted, the remaining 1,000 being specifications of inventions which the inventors find out to be old, or which they do not care to prosecute, and they use the provisional specification as a record for the publication of their invention, so that they may not be prevented using their own invention if

any body else should find out the same. About 35 per cent. are never granted, and of the 2,000 a year which are granted 70 per cent. become void at the end of the third year, because they are found to be not worth following out; and of the whole, 90 per cent. become void at the seventh year, so that only about 10 per cent. survive during the whole term. The reason of that rapid elimination of patents is the system of periodical payments which has been introduced. Conceding for the sake of argument that the alleged obstructiveness may exist, what is the remedy for that evil? Why, a compulsory licence. If you take away a man's land by compulsion if the public want it, why should you not compel the owner of a patent to grant a licence on reasonable terms because the public want it? Another suggestion which has been put forward, and which I believe it will be found that the commissioners will recommend, is some check on the indiscriminate granting of patents. There is no doubt that has been, I won't say an abuse, but a matter that has been not unjustly complained of. Patents are granted for things notoriously old, without any inquiry or examination. Then a preliminary inquiry is objected to. Mr. Hawes says, "an inventor must be a man in advance of his age, and yet he is to be asked to submit his plans to those who are behind him; and who, perhaps, cannot thoroughly estimate the value of the new principle brought before them. Imagine Mr. Winsor, the inventor of gas-lighting, submitting his plans to those who would have been the experts upon public lighting in that day—the great oil merchants—and asking them to decide whether gas was capable of giving as much light as the old oil lamps. Should we ever have had gas? In 1814 the idea was ridiculed of passing gas along the streets in pipes like water." Now that is perfectly true, but it arises from a misconception on the part of Mr. Hawes and others that it was ever proposed that there should be a prohibition to an inventor who asked a patent for that which was apparently new. The utmost that has been advocated by a committee of the British Association, and by this Society, has been that an inventor should be warned, so to speak, against his own ignorance with reference to previous inventions, and that if he insisted on having his patent, he ought to have it, taking all the risks and consequences. And if all those who now take out patents were warned in this manner, we have reason to believe that the 2,000 patents would be reduced one-half. Another class of objections put forward by Mr. Hawes is that the law of patents leads to so much litigation that inventors are better without it. Now, first of all, the question is not whether inventors get the benefit or not of their patents under the present system, but whether the system of patents is for the good of trade, or for the benefit of the public; whether it has not stimulated invention. The question may be safely left to inventors—or to those who know anything of the history of inventions—whether an enormous amount of time, trouble, and care, would ever be expended on a large class of inventions but for the protection which the patent affords. Then Mr. Hawes further objects to the system of printing and publishing our specifications, because he says we are thereby giving our knowledge to the world to take advantage of it. But what is the alternative to this? It is a return to a state of secresy, and that condition of things which existed when every art was a mystery. I do not think anyone will advocate a return to that state of things. As to the cost of litigation, there is no doubt it is an enormous grievance. But the remedy, first of all, is in the simplification of proceedings, which may very easily be attained. Each party may be compelled to state their case more fully. At present it is a sort of bush fighting. Each party comes into court knowing very little of the case of the other; and the judges do not choose to carry out the wholesome provisions of the statute for preventing the expenses of litigation. The statute is almost a dead letter, and the ingenuity of lawyers is exercised, of course, to make it as difficult and obscure as possible. The remedy for this has often been recommended by this Association and the British Association—to give skilled assessors to the judge, who, having knowledge in the particular matter in question, will act as a check upon counsel and witnesses in the extravagant opinions which are frequently put forward in cases of this kind. Indeed, the present system is very much a speculation on the ignorance of the court and the jury. Still, the power which the patentee has of causing litigation without any check,

is an enormous grievance, as instanced in the late case of the sewing machines, where the person sought to get a verdict in 150 cases in Chancery. The Lord Chancellor dealt with the cases in a very summary manner. He insisted on having the right to the patent tried first, and on the result of that the patent was declared invalid and the whole proceedings thus brought to an end. Those are the principal things to which Mr. Hawes refers in his paper. I do not think I have omitted any particular objection except this, that he objects also to the right of an inventor to property in his invention; and puts forward in a very prominent point of view theoretical distinctions which may be very briefly summed up, "That there is no such thing as property in that of which you cannot have the exclusive possession—that labour gives no right to property;" to which I would reply, that though it gives no right to property, yet it gives a claim to justice and reward. Mr. Hawes then illustrates the case by saying, "You do not find that the philosophers, the physicians, the surgeons, or the great artists and authors of this country are deterred in their career of usefulness or of invention by want of patents; yet they are not wanting, in discovery which they apply to the benefit of mankind at large." I say that illustration arises from a misapplication of terms; they deal with a different subject-matter. But an improvement in the arts or manufactures has a precise money value, in respect of which the patent law says that the patentee shall be rewarded. Mr. Hawes says, "Look at Switzerland." Now Switzerland is thrown in the face of the defenders of the patent laws on every occasion. But I would like to ask what invention has originated from Switzerland? We know that Switzerland has been very successful in carrying out other people's inventions; but I think if Switzerland is to be cited as an instance of a country thriving without patent laws, those who cite that country ought at all events to show what inventions of a character that could be the subject of patents have emanated from Switzerland. I have gone perhaps to a little too great a length into this subject; but I have presented the whole of Mr. Hawes' arguments on this question, and I trust that the remarks which I have made upon these arguments will elicit some specific answer, and that we shall have some reasons brought forward in support of the opposite position to that which I have supported, that we may know precisely in what respects trade is retarded by the granting of patents.

Mr. R. A. Macfie: I feel very much my own inability to do justice to this important question, or to answer, as it ought to be answered, the very able speech of Mr. Webster. Mr. Webster stated that the interests of British trade might be identified with four things, the cheapening of production, the saving of labour, the discovery of new markets, and the reduction of prices. He contends that inventions have these effects. I admit that, but I fail to agree with him that the patent system has, on the whole, had these effects. My belief is that the same invention often occurs to many minds, and I think it is not obviously just that any one of those minds should get an advantage over the others. Undoubtedly the patenting of an invention in one country has a tendency to make the goods manufactured dearer in that country than in countries where the invention is not patented. Mr. Webster on this point asked a question which I should like to see answered—for there are many persons who can answer it very decidedly—whether we could point to any instances in which this tendency has actually been shown by the effect having been produced. I think you have only to look round you to find many things dearer in this country than in countries where there are not patents affecting their production. But I do not think it necessary to take great pains to find these things out, because it is sufficient, in my opinion, to condemn the present patent law system, if we can prove that its natural—I would say its necessary—consequence is to make things dearer than elsewhere in the country that grants patents. Mr. Webster next told us that the theory of the patent law is that a monopoly is given for a limited time, till the public are instructed in the new manufacture or new method of manufacture. But the misfortune is, that the patent retards the use by the public of whatever is patented. As a manufacturer I contend, without fear of challenge, that in the ordinary course of affairs we should in our manufactures have the use of the great majority of patented inventions

sooner than at present if there were no patents. We must remember that, now-a-days, the hindrance of fourteen years is very serious, so rapid is now the race of competition. Inventions, which are made the subject of patent in this country, very soon become known in other countries, and not many weeks elapse before other countries adopt what is detailed in the specifications of Great Britain. The result, therefore, is that while we British manufacturers stand with our arms folded, waiting till the expiration of the fourteen years, our rivals abroad do or may at once step in, use the inventions, and compete with us in our own markets; at any rate, they get too frequently the use of inventions free, for which we alone pay, or are expected to pay, the inventors' rewards. Until a small number of years ago, British manufactures were protected by high customs and excise duties. These have been equalised, and there is now no protection. There is no discriminating duty on articles, whether imported from abroad or manufactured in this country. But in steps the patentee, and he says, "I charge you 1*s.* per hundred, or 5 per cent. *ad valorem* for the use of my patent." The British manufacturer has to pay this 5 per cent. It is a duty paid by him, call it by what name you will. It is a tax or duty levied by the authority of the Crown. Now say that the manufacturer in Hamburg or Havre manufactures the same article without being subject to any such charge for the use of the patent, he sends it through the British ports, and it is passed through the British Custom House, without any countervailing duty being levied upon it. Is that royalty not a 5 per cent. duty which the British manufacturer has to pay, and from which the foreign manufacturer is entirely exempted? It is a protective duty to foreigners. It is a differential duty clearly adverse to British interests. When this argument was brought forward at the International Association Meeting at Ghent last year, after the discussion an influential member of the Financial Reform Association of Liverpool, said, "I think I see how we can manage it—let the Customs discriminate between articles which are subject to patent duty and those which are not." Now I would ask you what a labour that would be to impose upon the Custom House. Mr. Gladstone, as we all know, in his admirable reforms has been reducing the number of articles subject to duty from 1,300 to now about 40; here would be a restoration of the whole to the category of goods examinable, and subject, it might be, to a variety of duties. But the thing is not only so vast a labour as to be impracticable—it is in its very nature impossible. Who can tell, by looking at a candle, or a piece of soap, or a piece of sugar, or a piece of paper, by what patent process they had been made? It is impossible to do so; therefore, as long as you maintain patents, and pay for them by royalties, you must continue to subject British manufacturers to duties to which their foreign rivals in many cases are not subjected. We were told that there was a mistake in Mr. Hawes' objection to patents on the ground of their obstructiveness. In the manufacture with which I am connected—the sugar trade—there are somewhere like 300 or 400 patents. Now, how are we to know all these 400 patents? How are we to manage continually, in the natural process of making improvements in manufacture, to know which of these patents we are at any time conflicting with? So far as I know, we are not violating any patent; but really, if we are to be exceedingly earnest in the question, probably we would require to have a highly paid clerk in London continually analysing the various patents; and every year, by the multiplication of patents, this difficulty is becoming more formidable. Mr. Webster went on to say that there is a prospect of some check being introduced on the indiscriminate granting of patents. I admit that would be a great improvement. There would no doubt be considerable difficulty in carrying out such a check, but all of us would hail it as something very valuable in the way of progress. My views on compulsory licences are, that it would be well to encourage to the utmost the specifying of new inventions; and if this is to be done by the granting of patents, that it would be desirable that the monopoly principle should cease, and that every person—as I believe is usual in other countries—should have the right of using an invention on paying an equitable compensation. That would be decidedly, in my opinion, better than maintaining the present monopoly. But I conceive that there are other ways in which

inventors would get more honour, with more profit too, than, on the average, they do at present. I would notice the statement of Mr. Webster, that labour has a claim to reward. The axiom is as old as the days of Solomon—"In all labour there is profit;" I have no fear but that the reward of inventors is sure, independently of the patent laws. When a manufacturer invents something for the promotion of his business, he has the reward in the improvement of his business. If an engineer invents a new engine for the supply of his customers, the business he does in the engines, and the prestige he acquires, are an ample and a large reward. But we need not depend even upon that. If manufacturers in any particular line of business feel that there is a desideratum, will they not, if the patent laws are abolished—as I have done myself—go to some engineer and say, "Will you be good enough to try and invent something that will serve this purpose?" The man of brain will then apply his head to the work; he will develope his plan, and the manufacturers will combine and give him a *honorarium*, or promise him a business that will be as good to him as a handsome fee. But I have never hesitated to say that I think the rewarding of inventors—the fostering of inventions—is a matter of national concern. The burden of paying for inventions ought not to lie on the manufacturers, whom you expose to unrestricted foreign competition, but on the State, at whose request, and not at the request of the manufacturers, the patent system is maintained. The institution of the patent system is a matter of 250 years ago. At that time trades were few, and those few trades were not highly developed. It was, therefore, at that time a right thing for the Government to give a promise of a long monopoly to any person that should introduce a new business. But patents now are very seldom indeed the introducing of a new business—they are generally the perfecting of an existing business. Again, if the inventor is a working man, it is exceedingly difficult for him to go through the very first stages of obtaining and introducing a patent. He is obliged to associate with himself some capitalist, and how large a share of the spoil that capitalist carries off is well known. The present tendency of patents is to restrain the working man from publishing his patent. Such a man says: "I have seen something while engaged in my master's employment that I may be able to work out by-and-by;" and locks it up in his breast. He waits an indefinite number of years for a period when he shall be able to set up some little business for himself, and work out his invention. Thus too often the invention is lost. Much better for the working man would be a system by which he might be able to obtain for his invention some comparatively small but instantly paid reward—some £10, £100, or £1,000, that he would receive when he goes and tells his invention to the Government officer. But more than that; this is a working man's question in a very much more important sense than has yet been brought before you. If there were no patent laws, the working man, from the necessity of the case introduced by his master into a knowledge of the new invention, would acquire the mastery of its principles—the mastery of its working. That knowledge and that mastery would be capital to him; it would be as much capital to him as money or manufactory is the capital of the master. It it better to him than money—this knowledge which he has acquired. Armed with this valuable possession he could go to any other manufactory, secure of high wages. His employer would rather retain him, however, by an augmentation of wages. But by the invention of patent laws we deprive him of that advantage. So that if there is any particular class that ought to desire release from the thraldom of the patent laws more than another, it is that of working men.

Mr. Bramwell: I will endeavour to state in what way a patent law of some kind—I will not say the present patent law, although it is better than people are in the habit of thinking—but I will state in what way a patent law of some kind is advantageous to the interests of trade. I do not think it will be denied that it is expedient that there should be invention and improvement in every branch of trade. It is also a clear self-evident proposition which cannot be denied, that there should be an amount of improvement made in England equal to that which is made in other countries. It is, therefore, desirable that there should be improvement in England, and in order to promote improvement, it is said by

some that inventors must be protected by patent, while others say that you can give a reward to inventors, though not by means of patents. One kind of reward which has been suggested is mere honour and glory; the other is, that the inventor may become the manufacturer of the thing he has invented, and that he, knowing more about his own invention than anybody else, will be in a better position than anybody else to carry on the manufacture, and will have the start of the trade, and get his reward in that way. It is also said that there may be a Government grant to inventors, but all those who put forward that proposal, say that they do not see how it is to be done. Do people fully realise what is involved in the proposal, when they talk of an inventor being rewarded by a Government grant? It is said that, even at present, there are about 4,000 applications for patents; but can anyone tell how many applications there would be if it were known that every man who said he had a valuable patent would be deserving of a large sum of money? It seems to me that it would be utterly impracticable to carry out any such proposal. Then it is said that inventors will invent, for the mere love of inventing, without reward. Now, it is true that they may invent without any reward, but for the purposes of trade, a mere invention is of no benefit—it must be an invention brought into practice, if it is to be really conducive to the interests of trade; and although men may invent, they will not bring their inventions into practice without hope of reward. In the first place, there are very few men who can afford to perfect their inventions for the mere honour and glory which they may receive from them; and even if they could afford to do so, what hope would there be of their getting glory? By glory, I presume, most people mean a world-wide fame, or, perhaps, European, or, certainly, a national fame. Now, what benefit is there in getting a national fame or glory? Fancy a man who has made an invention or improvement in the spinning mill, and supposing it is reported that Mr. A. B. has made an improved invention in the spinning mill which relates to "the after-stretch," or "the twist at the head," or "the building of the cop without the use of a shaper rail," why, these terms are German to the bulk of the people who read papers, and you could not possibly get them interested in the details of the invention. Probably, some of you will recollect a sketch which *Punch* gave, in 1851, of a swell in the Exhibition looking at a piece of machinery, and imagining it to be the interior of a large musical clock, saying, "Very ingenious; how many tunes will it play?" That is the condition of mind of a large class of people in reference to mechanics. I am sorry to say that among the members of the legal profession, of whom I know a good many, there are many who are exceedingly ignorant as to machinery. There is a legal friend present capable of grappling with any mechanical or scientific question; but I would appeal to him whether a large proportion of his brethren in other departments of his profession are not absolutely incapable of comprehending machines which, to others, do not require any exercise of mind. But, unfortunately, it is on the opinion of such men as these, equally unacquainted with machinery, and equally incapable of appreciating improvements in machinery, that glory depends. I say, therefore, that any hope of glory or national fame is absolutely impossible in a large class of inventions. Well, but suppose the inventor would be content with local glory? Say that a man, living in Bolton, invented a mule, and that, as the bulk of the people used these things, they could fully appreciate the value of the invention. But what would be the effect, supposing that the manufacturers knew of the invention, and used it? Why, it would very likely be found that one man who used it would say, "I had this thing passing through my mind, but I did not perfect it." That is the sort of feeling that would be found to exist, and while they would take advantage of the invention, if the law allowed them to do so, every expedient would be resorted to in order to deprive the man of the merit of being the original inventor; and I believe the last thing they would think of doing would be to go to the man and say, "We are benefited by your invention; we cannot pay you money, but we will set up a stone in your memory." In ninety-nine cases out of a hundred, the inventor would not get the credit to which he was entitled for his invention, and even though he got local fame by it, it would not be of much use to him. Then, as to the statement that the man who invents an improved machine or process of manufacture, has the very best

chance of carrying out his own improvement, and will get the start of the trade, and thus secure his reward in that way; I think that in most cases it would be absolutely impossible. It is not very often noticed, but it is nevertheless a fact, that the great substantive inventions or improvements in any department of trade or manufacture are generally made by men who are not engaged in the particular trade to which these improvements refer. That may appear paradoxical, but a little reflection will show why it is reasonable that it should so happen. When a man has been brought up in a particular trade, his ideas get into a particular channel or groove, and it is difficult for him to look at the thing he is engaged in, except in the direction in which he has been brought up. But if some man, unacquainted with that trade, turns his attention to it, he is untrammelled with any preconceived ideas on the subject—he brings an unbiassed mind to bear upon it, and the result will probably be that he will make it the subject of an invention. As an example, take Watt. At the time Watt invented his great improvement on the steam-engine he was a maker of mathematical instruments, not a maker of engines. Had he been so, the probability is that he would have gone on inventing some little improvement of no great importance—that he would have gone on condensing in the cylinder, and the bold idea of condensing in a separate vessel never would have occurred to his mind. Then, to go a little further in this direction, let me ask, who was Arkwright? He was a barber, and was not in any way engaged in spinning. Who was Cartwright, the inventor of the power-loom? A clergyman. Or take the screw-propellor. Who was the inventor of the screw-propeller? I mean Mr. Smith, the inventor who brought it into practical use? He was not an engineer, he was not an officer in the navy; he was a farmer at Hendon, Middlesex. Or go to the great improvement which was made in the manufacture of steel, and ask who was Bessemer? He was not a man engaged in working with iron, he was a manufacturer of bronze powder. Or go to the man who really introduced the signal telegraph, and ask who was Wheatstone? He was a maker of musical instruments. I have thus shown you that the men who invented all these great improvements were utterly unconnected with the trades in which the improvements were made by means of their inventions. Now I would ask you what chance would any one of these men have had of reward by engaging in the trades to which their inventions referred? Surely it must be evident that although a farmer has invented a screw-propeller, he has not invented the technicalities of the trade; and therefore if he were to endeavour to go to work, he would not know the details of the manufacture, and would probably be ruined from the want of knowledge of these details. He could only go with his invention to some man already established in business, and leave him to carry it into effect. I might follow up these illustrations by giving other instances to show the impossibility of the men who have made these great substantive inventions ever getting their reward by becoming manufacturers. There are other inventions which, although they may be made by men in the trade, are of such a nature that the inventors cannot get the start of their manufacture so as to get by that means a reward for their inventions. There is, for example, such an invention as the fish-joints of railways. A fish-joint consists of two pieces of iron applied to the ends of the rails and bolted. Now, valuable though that invention has been to railway companies, it is so simple that any hope of the inventor having a start in the trade of making fish-joints is perfectly idle, even if he were an iron manufacturer. I will take another instance, that of Siemen's gas furnace. Fancy Mr. Siemens being rewarded by becoming a manufacturer of his gas furnace! Is he to manufacture the things for which his furnace is applicable? If so, these are so numerous that the capital of many limited liability companies would not enable him to engage in so many manufactures. It is idle, therefore, to say he could reward himself in that way. It may be said that he could make and sell the materials of which the furnace is composed; but anyone else could do so, and he could not get his reward in that way. How, then, could Mr. Siemens get a reward by the personal exercise of his own invention? I think I have shown that in the class of cases to which I have referred, any hope of reward to an inventor from the personal exercise of his own inventions is impossible, because one class of inventions is made by men out of the trade, while the others are

inventions which, by their very nature, prevent the inventors getting their reward by that means. There are, it is true, inventions of a chemical nature, in which there may be a greater probability than in other cases of the inventor getting the start of others, because the processes may be kept secret more than in the case of other inventions. The one ingredient which is secret in the manufacture may be added by the principals themselves, and as long as he is able to keep the secret he would get his reward. But then it must be recollected that in the present day the chemist has always got before him the fear of an analysis of the thing produced. There is no doubt, however, that there is more hope of reward in a chemical manufacture than in any other, but only by means of the secret process. So far as regards mechanical inventions, it is absolutely hopeless to keep them secret, and as a proof of that I may refer to one illustration of a man who attempted to reward himself by carrying on his own invention. I allude to Crompton, the inventor of the spinning mule. I really think that the life of that man is one of the most mournful tales ever written, and it gives us an instance of what a man may expect to undergo who attempts to get a reward by means of working his own invention. He brought to market the yarn which he produced by his own invention, and sold it. The yarn was so decidedly superior that he could command any amount of sale for it at large prices. Then came the natural eagerness to know how the yarn was produced. I am not going to detail all the steps which were taken with the view of discovering the secret. They sent men actually to his house, and he had to barricade his house against the watchers, who actually got up trees to view his house. He then put up those contrivances which are put up in prisons, leaving little light and air for the inmates. He carried on his invention, with his house in a fortified condition, for some months, until, wearied out by the absolute siege of his premises, he gave up the contest and asked what those anxious to learn the secret would give him if he told them his invention. Some dozen of the large manufacturers undertook to give him some reward, and only two out of the twelve, if I recollect right, ever fulfilled their promise. But still it might be said that, as Crompton knew more about his invention than anybody else, he would be able to compete successfully in the manufacture with his rivals. But no sooner did he engage workmen and teach them the use of his invention, than the neighbouring manufacturers enticed them away from him by higher wages. They gave the workmen the glorious prospect which Mr. Macfie has been talking of, and the result was, that he was always getting new hands, only to get them taken away from him again. He at last got the aid of his own family, but even then the cupidity of human nature stepped in, and caused dissension in his own family, and took away his own children to be his rivals. Such was the history of Crompton, until at last, years afterwards, a parliamentary grant was proposed, and I believe he got £5,000. That is an instance of what a man has to get in the way of reward by carrying out his own invention; and I do not think it will serve to reconcile us to the melancholy story, although it may be said that Crompton has been rewarded by glory, because last year a statue was erected to his honour at Bolton. I trust I have established to your satisfaction the certainty of the failure of both modes of rewarding an inventor, either by glory or by his carrying out his own manufacture, unless he can keep his invention secret. Well, now, I believe that if the rewards of inventors were done away with, there would be a great cessation to the introduction of new manufactures, and England would fall back greatly in consequence of such a state of things. But the upholders of a patent law are told by those who wish its abolition, "Oh, it is a balance of advantages, and if you would do harm in that way, you would remove obstructions; and altogether we say that the balance would be in favour of the removal of the patent laws." Well, let us look at that, and let us see what is the operation of a patent law. It is said that the patents obstruct manufacture. Let us investigate that matter. I cannot help believing that that notion is based upon a fallacy to which Mr. Webster, I am glad to say, has directed attention—namely, this great fallacy, that no sooner is an invention published, than all the manufacturers are ready to rush to the invention office, buy a specification, and go home and put it to work and profit by it. I am quite sure that anyone who is engaged in manufactures, or who is acquainted with the Patent Office, will know

that a greater mistake than this never was committed. Here, again, I will give you a few facts in relation to the way in which patents are greedily seized upon, as the opponents of the law say, but as I say are not taken up without great and persevering efforts being made upon the part of inventors to persuade people to use them. I go again to the case of the fish-joint. That invention, requiring as it did but little alteration in the rails, was not taken up till six years had been spent in constant attempts to induce engineers to adopt the improvement. It is now admitted that the fish-joint is saving the railway companies about £150,000 a year; and so great an improvement does it effect upon railway travelling, that railway passengers may be heard asking, "What is this continual bumping?" whenever they get upon a piece of road that is not fish-jointed. And yet this improvement required six years' incessant hammering before engineers would take it up. I hope engineers are not so conservative as manufacturers very often are. The civil engineers in this case had no plant to displace by the new invention, it was a thing that could be applied to the rails that existed; but it was something so totally opposed to their ideas of what was right, that they could not be brought to take it up. That is one instance of the way in which patents are taken up. Another instance was Bovill's improvement in grinding wheat. That improvement was put to work at Deptford dock-yard, and the officials of the particular department in which the work went on were so opposed to the introduction of the improved process, that they actually injured the machinery, and there was a sort of court martial, which ended in three of the men being discharged for their conduct. The opposition of these men was most determined, and yet the improvement did not in the least degree interfere with their salaries. Their feeling was simply this; "We have been engaged as millers forty years, and yet you come here and tell us that you know more about it than we do." That is another illustration of how greedily people run after inventions. Then there is the case of Siemens' gas furnace. That invention is now in its fifth or sixth year, and it is only within the last two years that the patentee has been able to overcome the prejudices of persons engaged in trade; and yet I tell you that by means of that invention, there is a saving of one-half effected of all the fuel that is employed in manufactures requiring a high heat, besides numerous other advantages which attend it in the way of cleanliness and saving of time. Now, when one talks of saving one-half of the fuel employed in manufactures, it requires no argument to show that that is not only a local or national advantage, but that it is a world-wide advantage. The principle of this invention resembles that of the respirator. We know that if a man uses a respirator, he expels his warm breath through a small piece of metal wire-work, which takes out the heat of the out-going breath, while the incoming breath comes into contact with the warmth of the out-going breath. That is the principle of the respirator; and it is precisely that principle which has been applied to furnaces. Siemens applies two respirators, one at each side, to each furnace. Yet that invention, simple and useful as it is in the highest degree, had been four or five years known to the public, before people would adopt it. I have thus given three instances as to the alleged avidity with which inventions are taken up by the public. As to the mode in which inventions are generally taken up, the inventor commonly goes to a manufacturer, and says, "I have an invention, and I wish you would adopt it." The manufacturer declines to do so, and then the inventor says to him, "Well, let me use it in your premises at my own expense?" "I do not know about that," says the manufacturer, "I am poor, and you will stop my trade." "Well," replies the inventor, "I will give you half my patent." Very commonly, indeed, the invention is applied upon terms of that kind; and that shows that instead of the manufacturers being eager to adopt new inventions, a temptation has to be offered to them before they can be persuaded to take them up at all. That was the case with the invention as to grinding at Deptford, where the inventor had to put up his invention at his own cost. That was also the case with regard to the screw-propeller. All that shows to my mind the absolute necessity of some person taking great interest in an invention, and devoting his time to it before manufacturers will take it up and trade be benefited by it; and it is my firm belief that if there were no protection afforded to inventors by a patent law, no one would be at the trouble

and expense of making the experiments necessary before an invention can be perfected and adopted in any manufacture. It would, in the absence of a patent law, be nobody's business in particular to make these experiments. I believe that a patent is useful in furthering the interests of trade by encouraging persons not only to invent, but to persist in their inventions, till they become practical things; and it is then, when they become practical, that a complaint is made as to the patent by manufacturers, I think with little justice. It is complained that a patent stops all improvement for fourteen years. I cannot understand how that can be alleged. The facts, I believe, are these. Suppose a man takes out a patent for an improvement in a particular line of manufacture. If any one comes afterwards with an improvement which is totally dissimilar from the first, it is clear that the first patent cannot stop the second. If any one comes afterwards with an improvement upon an improvement, the two patentees are in this condition, that patentee No. 1 cannot use the invention of patentee No. 2 without his sanction; but patentee No. 2 is also unable to use the first invention without the sanction of patentee No. 1. Now what is really the practice in those cases? The practice, so far as my experience goes, is this, that the two invariably meet together and make an arrangement to work in common. To my mind, therefore, it is a mistake to suppose that patents stop improvements in manufactures for fourteen years. Then it is said that, supposing it is really a good patent, a man, by refusing to grant a royalty, may have a monopoly, and that ought to be abolished. Now I believe that instances of that kind are uncommonly few. I believe that a man who has got a patent has got something to sell, and that he will put such a price upon it that while he gets a profit the manufacturer would also get a profit. It would be odd if it were otherwise. But even if it were the case that a man should refuse to grant a licence to use his patent, would that be any argument against a patent law, more than it would be an argument against titles to real property that you may, once in a century, meet with some eccentric holder of property like the lady who chose to keep a property in the corner of Stamford Street untenanted and a nuisance for fifty years? But as a further answer on this point, I think that there would be no possible objection to putting into any patent law that might be framed, a provision that there should be a licence granted, at rates to be fixed by arbitration or by some other means. I believe that such a provision would not come into operation once in a hundred years, because patentees would not be so unreasonable as to refuse to grant a licence, but to meet the objection such a provision could be made. Then it is said that bad patents stand in the way of improvement. I must say that I cannot understand that objection, because no one can want to use a patent that is useless. Then it is complained that many patents are not new, but if a patent is not new it is not valid. There are cases, no doubt, though they are not very common, of concurrent inventions; but the question must be, Are there cases of concurrent inventions combined with concurrent efforts to bring these inventions into practical use? If not, then the man who devotes his time to endeavour to bring an invention into practical use is entitled to the reward of a patent. I think that is all I have got to say on the question whether any patent law is a desirable thing. But I would like also to say a word or two as to the existing patent law. I have no hesitation in saying that the public are largely indebted to patentees, because out of the numerous patents a large proportion expire at the end of the six months, so that the public have a right to use these as soon as they have learned of their existence. The failure to carry on the patent, at this early stage, arises from a variety of causes. One of these is, that a man is desirous of making an inquiry, and he cannot do so without being protected himself. He pays £5 in order that he may make his investigation in safety. During all that preliminary period many a man occupies himself in seeing whether he cannot get a capitalist to enable him to carry out his invention: and failing to do so, at the end of the six months many valuable inventions are allowed to fall to the public. Then others are put on record, but soon afterwards they are dropped, and become the property of the public. Others fall to the public at the end of three years; and then, at the end of seven years, come those which, after years of trial, are found not to pay. The inventors have been exerting themselves in the interests of trade, but they

find that it does not pay them, and they give up their invention, which may still be of great service to the public. It appears to me that the present system works well. There is one other important point on which I wish to make a remark, and I do so with great diffidence, because it refers to legal matters. That remark is, that I believe a large amount of the odium which is cast on the patent laws is not due to the laws themselves, but to the mischiefs arising from the manner in which they have been interpreted by the judges. The fault lies not in the real patent law, but in the judge's construction of the law, or the judge-made law. The law says that an inventor shall truly specify his invention, so that the public should know what a man really claims and what he does not claim. But the judges say, If the inventor chooses he may declare that his invention is a combination in effect, and that he makes no specific claim. The effect of that is, that the patentee can have an action against any one who infringes any new portion even of his claim, but cannot have his patent upset in consequence of any portion of the claim having been old, because then he falls back and says, "I claim nothing short of the whole." As to the remarks which have been made about working men in connection with this question, I believe that this is indeed a working man's question. I believe that the great majority of working men feel that in the patent laws they have the means of raising themselves above their present position; and I firmly believe that these men would deprecate most strongly any proposition which would tend to do away with the patent laws altogether.

Mr. R. D. Urlin: I was very much disposed at one time to think that patents were advantageous to the public; but a great impression was made upon my mind by the opinions against the system expressed by Lord Granville and M. Chevalier; and I cannot imagine that in England or France two names can be quoted carrying more weight than these I have just named. For myself, I am of opinion that a compulsory licence is a partial remedy for the evils complained of. Mr. Webster appeared to me to admit that the objection to the patent system, founded on the litigation to which it gives rise, was fairly to be urged. He told us that there was a statute passed in 1852, which had been a dead letter; and the conclusion I draw from that fact is that the statute is part and parcel of a system which the judges should not be called upon to carry out; part of a system which, not being able to be carried out sufficiently during a period of ten years, has condemned itself by that very fact. Mr. Webster proposed, as one method of diminishing the evils of litigation, that skilled assessors should be allowed to sit with judges in the trial of these patent cases. But I think it will be found that where assessors sit with a court, the court is not bound to follow the opinion of the assessors; and therefore, unless the judge were disposed to yield to the scientific person who sits by his side, he would probably take his own view of the case, whatever the assessor might say on the matter. If an invention is a valuable or useful one, the inventor should be recompensed by the State. And I venture to think that although any remuneration to be given by the State to an inventor could not be fixed at first as to its amount, it could be fixed after a short time had been allowed to elapse, during which time the value of the invention could be fully and satisfactorily tested. When we were told that the inventor has often to go to a manufacturer, and ask for leave to work his patent, which is often refused; and that, for the mere purpose of acquiring a right to see the invention put into force, he is obliged to part with one-half of the profits which may be made from the invention; it shows in a forcible manner the evils of the existing patent law. In my opinion it is clear that, by getting rid of the patent laws altogether, you would at once get rid of a source of great inconvenience to poor inventors, and at the same time develop a system of freedom of trade which would be found, in the long run, to be greatly conducive to the interests of the whole country.

Mr. Fisher: The interests of trade seem to me to combine, first the interests of the inventors, and then the interests of the consumers. The proper legitimate object of an invention, is a reduction in the cost of production. Now that reduction in the cost of production is useful to the community in one or other of two ways; either it lowers the price to the consumer, or it increases the profit to the manufacturer, or it may happen that it does both. Then comes, however,

the great principle that really, in my opinion, underlies all this, and that refers to the question of property. A man undoubtedly has a right of property in that which he produces himself, whether he produces it by his hand or by his mind. "Is the right of property which a man has in his own invention to be taken from him without his receiving an adequate compensation for it?" And if it is admitted that he should receive an adequate compensation for his property, how is the amount of that compensation to be arrived at? How would it be possible, in the absence of a patent law system, to ascertain by any means the real value of a patent, so as to enable Government to give a suitable reward to the inventor? The thing would be impracticable. The question brought before us by Mr. Macfie comes really to this, "Whether, admitting the right of property of the inventor in his invention, you ought to abolish the patent laws altogether for the sake of preventing competition in various quarters, not against the patentee, but against the manufacturer who takes out a licence from the patentee?" The manufacturer pays 5 per cent. for a licence, it is said, to use the patented invention, and we are told by Mr. Macfie that this is a tax of 5 per cent. which is paid by the British manufacturer, and from which his foreign rival is free; and therefore the patent system ought to be done away, in order to enable the English manufacturer to use without payment the property of the man who made the invention. Surely, instead of resorting to such a remedy for the disadvantage under which the British manufacturer may labour, the proper course would be to endeavour to secure such international laws as would recognise the property which is the product of the human mind in whatever nation it is brought out. The whole tendency of the law should be to encourage not only the working classes, but all classes, to use their ability for the good of the public, and in order to do that you must give ability its just reward. If we deprive ability of its reward, we cannot expect that inventors will come forward and spend their time and their energies in promoting improvements for the good of the public. It must be remembered that men require to be rewarded, not only for their inventions, but for the time and trouble which are required to induce parties to use the invention. And then I am entitled to ask, in discussing this matter, whether trade has not actually flourished under the patent laws? Have not inventions taken place under these laws in great number? Have they not, as a matter of fact, proved to be conducive to trade? The present laws may require alteration, it is true, in order that they may better secure the end in view—the protection of the inventor, and the consequent promotion of trade by the encouragement of inventions; but in my opinion anyone who asserts that the patent laws are not conducive to the interests of trade, asserts what is contradicted by the very fact of the existence of so many patents. With regard to the idea that the State is to pay inventors for their inventions, in order to allow the abolition of the patent laws, why should that be done? Would it not be simply calling upon the State to pay in order to enable particular manufacturers to use a particular invention for their individual profit? On these grounds I must express my agreement with those who approve of the system of granting patents as conducive to the best interests of trade while doing justice to inventors; and I believe that any abuses connected with the present system might be remedied by judicious legislation.

The President: I think we have now nearly concluded the discussion of this important question. Permit me, before the meeting separates, to refer for a moment to one point that I do not think has received the attention which its importance deserves—namely, the effect of the patent laws, not upon the mechanic who invents improvements in machinery, but upon the large class of mechanics who use the machinery. I find that one effect of the progress of mechanical invention has been uniformly to advance the wages of labour. In the manufacture of cotton I find, on looking back at the history of the progress of invention, that in addition to the effect of each invention in reducing the cost of the article, to which reference has already been made in this discussion, the inventions have also been attended with an advance of wages to the labouring classes. So great has been the effect produced in this way that in the beginning of this manufacture, when the inventions had not been made to any extent, the wages of the operatives were not one-half of what they are at present. The power-loom, too, it appears to me, has had the effect of increasing wages. There

had been, of course, an immense diminution in the number of hand-loom weavers, and a corresponding increase in the number of persons engaged at the power-looms; and improvements had been introduced into the power-looms the effect of which was to require more care and more intelligence on the part of the workers. A higher order of mechanics had thus been gradually introduced, and the rate of wages had also increased on that account. We all know that the effect of the inventions of Crompton and others, on the cotton manufactures of this country, has been remarkably to reduce the cost of production. At one time, the cost, by the hand-loom, was 3*s.* a pound, and now, by means of the improved machinery, it is produced for 3*d.* The effect of a reduction so remarkable, has been that we are enabled to undersell even the Hindoo, and every other competitor. I believe that there is no part of the world, certainly not America, that can withstand the reduced price of the cotton manufactures of the country. That is an example, complete in itself, of an enormous trade produced literally and exclusively by the labour of inventors, a great part of which has been due to the encouragement afforded by the patent laws. I scarcely think that any of the inventions—with the exception of that of Crompton—would have been introduced without the protection afforded by the system of patents. I believe myself that, under the patent laws, many inventors receive too much for their inventions; but we all know, on the other hand, that even under the protection of patents, the rewards of inventors are, in very many instances, an insufficient compensation for the labour which they have bestowed upon them.

Mr. Webster: I would like to say one word as to a proposal which has been made by Mr. Macfie to compensate patentees. Mr. Macfie proposes that the patentee should have an absolute right of property in his invention for three years, and that after that time it should be competent for the manufacturer to call upon the patentee to have his patent valued, it being understood that the valuation should take into account the utility of the invention, the cost of preliminary trials, and originality. I think that this proposal of Mr. Macfie's is a practical one, and I am the more inclined to bring it before the Department for this reason. Mr. Macfie is engaged in the sugar manufacture. Now in that department of manufacture improvements are introduced in which the amount of originality is very small, while the profit may be very large, altogether disproportionate to the merit of the invention. That is a case, above all others, to which the system of licences might very fairly be applied. Or the State might say, "That is a very small thing and of large benefit to the public; that ought to be valued." I do not think there is anything in such a proposal inconsistent with the principle of the patent laws. As regards this being a working-man's question, any one who knows, as I have had opportunities of knowing, how many working men have, under the present system, at a cost of £5, got protection against masters which they could not otherwise have obtained, must know that working men have been enormously benefited by the patent law of 1852. That is not a matter of speculation, but a matter of fact. I could mention hundreds of instances in which the working man has been benefited by the patent laws. The subject of rewarding meritorious inventors has been before the British Association, and they appointed a committee for its consideration.

After some further discussion the following resolution was put and carried unanimously:—

"To recommend to the Council to consider whether any and what alterations may be made in the mode of remunerating meritorious inventors so as to promote the advancement of practical science, and the relief of manufactures and trade from inequalities alleged to arise from the present system in cases of competition with manufactures carried on in other countries."

"*In what respects and to what extent should Government Security and Supervision be applied to the Provident Investments of the Working Classes?*"

DISCUSSION.

Mr. THOMAS STRACHAN: In discussing this question we are restricted at the outset, because Government supervision or security is already extended to savings bank investments, and, by the recent Annuities Bill, is extended to life assurance for the working-classes; this, almost of necessity, reduces our inquiries to this form, "What is best to be done with the sick benefit societies of the working-classes?" When Mr. Gladstone made his noted speech upon the introduction of the Government Annuities Bill he spread distrust of insurance companies and Friendly societies throughout the kingdom; and, although the insurance companies were able to repel the insinuations contained in that speech, the Friendly societies were felt to lie under a stigma, not altogether undeserved, but such as renders it imperative that some remedy should be found for the existing state of things. It is estimated that there are 20,000 registered societies in England, and that a large number of them are insolvent; and, when the time of necessity arrives, it will be found that they do not give that security to the working man which he was led to expect. Beyond this large number of registered societies, there is an innumerable host of them that are not registered, and which receive payments for benefits which they do not confer. The difficulty which Government is likely to experience in the working of life assurance, so as to avoid being defrauded, is one which applies with tenfold force to a sick benefit society. Even in a small society, incessant disputes arise where members claim sick allowance without proper and sufficient cause. If the principle of Government intervention were conceded, it will easily be seen that it would be impossible for it to undertake a national sick benefit society, as it has done a national savings bank and a national assurance office. Our next step, then, must be to inquire whether any alterations could be made in the existing law, so that the existing evils might be reduced if not removed; and this, I respectfully submit, is the only form in which Government interference can, legitimately, be exercised in the matter. The present law takes no care to ascertain the likelihood of a society meeting the engagements entered into by its rules. Nor does it exercise any supervision over the operations of the society. The law has established a system of registration according to which the rules of a society may be registered, and they are required to make certain periodical returns. But these rules may contain the proposed payments and benefits, or they may not. They may contain tables of contribution totally inadequate to provide the benefits promised, and still equally receive the registrar's certificate, and this is mainly the reason why so many societies decline to register. The registration and certificate is no guarantee that the society is secure. I would therefore beg to submit that Government should interfere and create a new law, among the provisions of which should be the following: 1. That all societies, as a condition precedent to registration, should, in their rules, contain tables of contribution for the benefits proposed, and that such tables should be vouched and signed by a competent actuary. 2. That each society should keep a separate fund or account of its management and expenses, and that no part of the funds derived from absent members should be spent for the indulgence of those present at the meetings. 3. That the rules of each society should specify a time for the holding of its annual meeting, when balance sheets of its receipts and payments should be presented, properly audited, and that, not less often than once in five years, a balance-sheet of assets and liabilities should be made and vouched by a competent actuary, and that copies of all balance sheets should be filed with the registrar not more than one month from the meeting at which they are presented. 4. That in each district or county there should be a professional auditor appointed, whose duty it should be to examine the books and accounts of each registered society in his district, and sign their balance sheets when correct;

with power to compel attendance and the production of books, papers, &c., and to sue for the penalties for neglecting to make the necessary returns to the registrar; an appeal being allowed from the local auditor to the registrar. In order to carry out the first and second recommendation, it would be necessary to define the competent actuary. Although it might be possible for the Government actuary to frame tables for all sorts of societies, yet he would hardly be able to prepare valuations from time to time of the societies in the whole kingdom. Hence the necessity of legally recognising the Institute of Actuaries, a society amongst whom are some of the most eminent of the profession, whose care is to raise the status of the profession, and to whom it might well be left to license qualified practitioners. By publishing balance sheets of assets and liabilities, the continuous position of a society would be seen, and any faults guarded against. By periodical and official audit each society would be kept up to the requirements of the law, and be able to demonstrate its solvency, and the certificate of the registrar would acquire and deserve confidence. This, I submit, is the only Government interference or supervision, which, while it attains its object, would, in the language of Mr. Tidd Pratt, "encourage that spirit of self-reliance, and of participation in public business and in the management of his own affairs which a working man has a right to in common with the highest in the land."

Mr. R. D. Urlin: Any one opening this question at length, must have been expected to show to what extent Government should be called upon to interfere in a matter which has hitherto been left to private management and enterprise. But that is a question of such magnitude, that it would ill become a casual speaker to enter upon it. The first class of investments that occurs to my mind is savings banks, and I need not remind those present that the system has been condemned by a long course of experience. In Ireland there have been some bad cases of failure, and it has been sufficiently shown that the existing laws there are quite insufficient, that Government security really did not exist. The savings bank question has been to a great extent simplified by the very excellent Act which allowed the working classes to invest their small savings through the medium of the post office. I hope that system will prevail and be extended, and I see no reason why it should be limited, or that in the case of large deposits the rate should not be raised. In referring to the admirable speech of the Chancellor of the Exchequer, instead of accusing the right honourable gentleman of making too great complaints against the insurance system, I give him credit for keeping back facts probably in his knowledge, from the desire not to shake confidence in institutions, some of which are probably in a doubtful state. The subject of benefit societies has been well handled by the gentleman who has just addressed the meeting, and I think these suggestions, coming from a man practically acquainted with the subject, are of great value, and I hope they will receive the attention they deserve. I see no reason why the Government should not take up the business of a benefit society. Why should not men pay 6*d.* a week to the post office, or some office under the control of Government, and give to the depositor in case of illness the sum he now hopes to receive through a benefit society? There is in most small villages, in the south of England especially, a benefit society, which usually meets on Saturday nights in the publichouse, the result being that a great deal of time and money is wasted. Some of these benefit societies have been broken up in an insolvent state. The gentleman who has spoken, suggested as a remedy that their rules should be looked into, not merely with regard to their legality, but also the sufficiency of the rates of payment, which I think would remove a fruitful source of mischief and anxiety in some cases within my own knowledge. The rules of these societies should be made a subject of careful professional inspection. I see no reason why a Government audit should not be established. I would not render it compulsory, but I do think every public society which provides the means of investment should have it in its power to get its balance-sheet audited annually by a person under the direct authority of the Government, and I have no doubt that that audit would have a beneficial effect on the working of these societies, and there would be a strong desire on the part of careful persons to invest in societies having the benefit of that audit. But the audit should be a voluntary one.

Mr. Robertson: I am afraid my opinions may be thought to be somewhat opposed to those of previous speakers, but the object of this meeting is to hear opinions on all sides. My own feeling is, that the responsibility, both in banks and insurance offices, should be single and definite. In other words, it should not rest partly with the local authorities, and partly with Government. I think all systems of Government audit of insurance rates and tables have a tendency to divide the responsibility between the local managers and the Government, and that the depositors and insurers would practically be deceived into supposing that they had Government security, when, in point of fact, Government was not responsible. The tables might be good, and the rules according to law, yet, from some defalcation or extravagance locally committed, the society might become insolvent. But the poor insurers might say they trusted these tables would be all right, seeing they were subject to Government audit and inspection, and they presumed the Government would make all good. Now, all these deceits are ungracious, especially when the character of Government is concerned, for to deceive a poor man in regard to the conduct of Government to him, is one of the most fruitful causes of discontent towards Government that can be supposed. I would propose, therefore, that, both in banking for the poor, and insurance for the poor, there should be one simple institution established in which the Government is absolutely and entirely responsible. It then would be in the choice of the labouring man whether he would insure with Government, or with his friends and neighbours. He would be certain in the former case that he had an absolute security; in the latter he would not have an absolute security, but, probably a smaller premium to pay. The reason why Government could not offer terms quite so favourable in respect to interest or premiums is that it would be the duty of Government to invest the funds in Government securities, which produce, as we all know, a low rate of interest. On the other hand, local managers might be at liberty to avail themselves of railway securities, and others they thought perfectly valid, producing a better rate of interest, and thus enabling them to offer a more favourable return to the insurer. Institutions of this kind, I think, violate no principle; they are definite as to the security offered, they are definite as to the terms, and they do not compete mischievously or unjustly with private enterprise. Now, if the Government were to come into competition with the banks and insurance companies, offering, not only the most absolute of all securities, but also a rate of insurance premium as advantageous to the insurer as the local and private enterprise, this would be a wrong and injustice to the parties carrying on the trade of bankers or insurance companies, and why? Because the Government is taking advantage of the credit of the whole country, including the credit of these bankers and insurance companies, to destroy their business. But once compel the Government to invest all its funds in Government securities, and make your tables of interest so low—that is, so favourable to the Government, and so unfavourable to the insurer—that no loss could in any circumstances accrue to the Government, no injury is done in my judgment either to the poor man who insures, or to the tax-payer, or to the competing institutions, the banks and insurance companies. The great recommendation therefore of the new Post Office Savings Banks is that they steer clear of the two objections to which previous savings banks were undoubtedly open. These objections were, first, that the depositors were deceived as to the amount of security they enjoyed, a deceit which in many cases has been attended with the most melancholy results, and in the second place they committed a wrong on the whole community, for it is well known that the nation at large has suffered a severe loss by reason of savings bank failures. A more apposite time than the present for illustrating the nature of that loss could not well be. The price of consols at the present moment is probably to the seller under 88. The price two or three years ago was probably 93 or 94. Here we have a difference of 6 per cent. loss to any party buying consols three years ago, and re-selling them now. To what extent Government has had occasion to buy consols three years ago, and resell them now, I have no means of ascertaining. But the prosperity of the country in 1860, particularly Lancashire, was perhaps greater than was ever before known. The deposits in the Savings Bank of Burley doubled themselves in one or two years. What had the Government to do with all that money?

Unquestionably to re-invest it in consols at 93 or 94. Then comes the cotton famine, and the stringency in the money market, and now the savings bank trustees are every three or four weeks sending up to Government for money, so that the Government are selling consols at a loss of 6 per cent., and the interest they have been allowing the depositors is the full interest, and they have no insurance whatever against losses occurring in that way. I rejoice, therefore, that the Post Office Savings Bank has limited the rate of interest to 2½ per cent., which leaves a margin of 1½ or 1¾ to Government, in order to protect them from these inevitable losses. Then, I may remark, 2½ per cent. is a rate so low that it will not come into unjust competition with other institutions, which, from their resorting to more profitable investments than consols, can give a better rate. The object which I desire to see accomplished in all these Government provisions for the safety of insurers of the labouring classes, should be on these principles: first, absolute responsibility on the part of Government; second, non-interference with private enterprise, and third, that the tables and rates should be so fixed that no loss to the tax-payer should thereby be occasioned.

The CHAIRMAN (Mr. Hastings): I do not wish to express any opinion on the general question submitted to the Department, but I would say as to the absence of papers to open the debate, that it arises, I believe, from this, that there is a general feeling among the members of the Association that the very important Bill brought in by the Chancellor of the Exchequer during the last session had so recently passed that they thought it better to wait and see how it operated before expressing any opinion on the subject—a very reasonable reticence, as I think. With regard to what has been said, I certainly feel strongly that the *primâ facie* principle ought to be that men ought to manage their own affairs and look after their investments. At the same time there can be no doubt that very great evils have resulted from the benefit societies, and I should be quite well prepared to believe that a great deal of good may be effected by some Government supervision—at any rate some better applied supervision than has been the case hitherto. But at the same time I hope the Department will not lose sight of one great truth that runs through all questions of this kind, namely, that if you want to promote education, and support the power of self-government among the body of the people, you must be content with a certain amount of evil until they are better informed than they are at present. Men must learn by a certain amount of distrust to manage their own affairs for themselves. That is not a principle confined to the working classes; it applies to all classes of society, for all have been very lax in the way they have suffered joint stock enterprise to be carried on. I have no doubt, however, that the middle classes are rapidly learning wisdom on the point; and I sincerely hope that the same wisdom will gradually permeate through the working-classes, and when that time arrives, they as much as those above them will be fitted to manage their own affairs.

COLONISATION AND EMIGRATION.

Mr. THOMAS M'COMBIE read a paper entitled, "Colonisation for the Age; an Important Element of Social Science," which he has published, along with other papers contributed to the Association.*

Dr. YEATS read a paper "On the National Exodus; its Consequences and Results," in which he argued that the United Kingdom was already suffering from depletion by excessive emigration. He showed that, until the last decade, there had been since 1815 a steady decline in the percentage of increase in our population. He

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* London: Sampson, Low, & Co.

analysed the returns of our Emigration Commissioners to show the numbers, the ages, and the industrial qualifications of the emigrants. He proved, from the census of 1861, that the departure of multitudes at the most effective ages of life had disturbed the natural and just proportion of ages in the present population, and that while increased longevity had been obtained by increased knowledge among the people, and better habits, to emigration was owing a decrease of numbers in the earlier periods of life. "Emigration," said Dr. Yeats, "from one country in which all the land is appropriated, to another where land wants reclaiming, is a natural order of things. We need raw material for many of our manufactures, and hope that our emigrants may send us from abroad what we could not raise at home. But there is room for apprehension when multitudes leave us merely because their labour is not remunerative; and very serious must that apprehension become, when we find, from the reports of the Registrar-General, that the flower of the operative population is departing, and leaving the infirm, the dwarfed, and the deteriorated behind." For this anomalous condition of our country there was, Dr. Yeats considered, but one remedy: an effort to awaken the people to a sense of national danger from depletion, and then to help by every means possible to add to our industrial powers, and thus render the whole population self-supporting.

Mr. Graham Gilmour read a paper on "The Argentine Republic as a Field for British Emigration," which has been withdrawn for separate publication.

DWELLINGS FOR THE WORKING CLASSES.

Mr. John Holmes read a paper on "Houses for the People, and how to Provide them." He said the scarcity of houses for dwellings for the working-classes was one of the most notorious and deplorable facts of the day. The development of the manufacturing system, and the increase of population, while it rendered the necessary demand for houses so much greater, limited the conditions of supply by making land and material more costly. In the town of Leeds at least 2,000 houses were required at once. Benevolent effort could not be relied upon for an effectual supply. The great desideratum was to induce and enable the people to provide fit dwellings for themselves. The building societies of Leeds had, he thought, gone far to solve the problem. The practice of these building societies is based on the fact, that 2*s.* 6*d.* per week will, in fourteen years, at competent interest, make £120. Subscriptions are accumulated and money lent to members, on freehold security, at 4½ per cent.; at the end of the fourteen years the property is free. £150,000 is turned over in a year in this way in Leeds, and one half at least is the frugal saving of the wage class. But houses require to be built

before they can be bought, and working men were exposed to many disadvantages in planning and building houses for themselves. Mr. Holmes showed how this had been met at Leeds as follows:—

A few gentlemen, conscious of the disadvantages that working men were placed under when building for themselves, proposed in the early part of 1861 to erect good houses in some suitable situation; and with the advantages of acquired experience in arrangements, attention to workmanship, and the general economy of operation, to give the people the benefit, by disposing of them at cost price through the medium of the building societies. It was proposed to require about one-fifth of the cost to be paid down by the purchasers on agreement; and then to mortgage the property to the building societies, from whom advances were to be obtained to pay for the work; and then to hand over all arrangements for repayment to them on their usual terms. It was supposed that land might be purchased lower, and that the conveyances, labour, and material could be got cheaper and better in quantities than could be obtained by individual efforts. The first experiment was satisfactory, and others succeeded in the following order:—Block No. 1, Victoria Terrace, Beeston Hill, completed and occupied November, 1861, consisted of ten houses. The price was £160 and £170 respectively for the end houses, £156 10*s.* 6*d.* for the eight centre ones. The houses have cellars, front and back dwelling rooms, one large bedroom and two small ones. There is a front garden plot and back yard, enclosed, with separate conveniences; gas, water, and drainage are well supplied, and the rooms are thoroughly ventilated. When the houses were being erected, persons applied to purchase, and they were sold according to priority of application. The average deposit paid down was £38; and the building society advanced about £118 additional. The weekly payments to the building society for this would be 4*s.* 6*d.*; and as the rent for houses not nearly equal to these in the neighbourhood was 3*s.* 6*d.*, it was at once felt to be a great boon to the purchasers, and this was cordially expressed at a meeting called to celebrate the completion and occupancy of the houses by the purchasers. The 2nd block was completed in August, 1862. It is called Albert Terrace, and is pleasantly situated at Burley Lawn. There are eight houses, the two end ones being rather larger, as before; the total cost was £1,334, and they were at once disposed of. Six for £160 each, and the ends for £180 and £190 respectively. There are cellars, two living rooms, 15 feet by 12 inches, with one large and two small chambers. The end houses have four large bedrooms. They have small front gardens, with separate back yards and conveniences, with ample sewerage, gas, water, and ventilation. The deposit paid averaged £32 13*s.*, and the balance was met by mortgaging to the building society as before. A 3rd block was completed at Langham Street in New Wortley, in May, 1863. There are fifteen houses, ten of which measure 15 feet 2 inches by 14 feet for living room, with a large scullery at the back, without fireplace. The five have two

living rooms of equal size with three bedrooms. The ten houses cost £142 each, and the five larger £188 each. This lot was not applied for so readily as the other houses; the people want two living rooms, which these had not; but the houses not sold were let readily for 4*s.* 1*d.* and 5*s.* 7*d.* per week. The neighbourhood was not favourable, and several disadvantages had to be contended with. The houses were however all disposed of by January, 1864.

The 4th block of houses, Houghton Terrace, Meadow Road, completed in October, 1863, are of a better kind, and larger, both in house and grounds, than the other. Application was made to the committee by a number of the higher paid artisans, to build a row of houses in a certain locality; and they stated their willingness to pay £180 or £190 for such arrangements as they proposed. The committee agreed, and, under general directions, they purchased the ground from Lord Houghton, at a slight reduction, for the object. The total cost was £3,474 13*s.* 3*d.* The number of houses, eighteen, are handsomely designed and well finished, the end houses being rather the largest. They were readily disposed of for £192, £215, and £220 respectively; and though higher than the others, they are cheaper than any other houses in the market for their quality, size, and convenience. The deposits of £40 and £50 were punctually paid, and the occupants pay to the building society the subscriptions proportionately. Another lot of houses, of two rows, having nine in each row, is now in the course of construction at Armley Hall; and the committee have no difficulty in disposing of any number they are likely to erect. In one or two cases where the original purchasers had to dispose of their lots, they have obtained £10 and £20 more than first cost, proving so far their good value, and the estimation in which they are held.

The committee have been well pleased by the result of their labours, seeing that fifty-one families have been far better accommodated than they were before by an arrangement which will make the houses their own freeholds in the space of little more than thirteen years by the interest of the first deposit, and for little more than the average weekly rental of given convenience; this object will be attained to the owners without any pecuniary cost to the committee of promoters. In the first instance, one of the committee advanced the money for the land and preliminary operations; but the deposits of the applicants paid all off, and interest, within the first four months. The funds and action of the building societies then take all the rest of the responsibility and trouble. Mr. Holmes concluded by observing that the experiments now detailed would doubtless commend themselves to the Association, as being a practical method of supplying the better paid artisans with houses of their own; and that in extending them two things ought to be kept in view, the necessity for constructing dwellings which would meet the habits and ideas of those for whom they are designed, and the raising of the popular estimate of a suitable home and its cost.

Mr. WESTGARTH read a paper on "The Principle of Association applied to the Dwellings of the Working Classes and of the Poorer Classes Generally." He said the present was an important era with regard to the dwellings of the people. Their tenements were being swept away by thousands by railways and other improvements, and as a great rebuilding must sooner or later supply the void, society was concerned that the restoration should, as little as possible, include the defects of the past. Much had been done by the erection of model buildings, but not enough. He advocated the application of the co-operative principle in hiring houses, which in London are usually taken by some one who makes a living by letting them out in single rooms. This was the simplest aspect of his plan, which contemplated also the construction of houses on suitable models for the purpose of co-operative occupation, and within which a number of families who had agreed to associate for the purpose, should each have their distinct domicile. He suggested that such an associated tenantry might have a common hall—the resort in the evening of all the families, and combining the coffee-room, reading-room, and club, at home—and further that they might have a common dining-hall. Mr. Westgarth looked to joint stock companies, like the hotel companies, as the agencies by which the necessary edifices should be constructed. To realise fully the economics of the system, each building should contain at least two hundred households, and be five or six stories high. In form it might be an oblong square, the inner quadrangle roofed with glass to serve as a hall; each floor surrounded by a light balcony, both outside the building and within the hall, communicating with the ground by spiral staircases, and so giving to each dwelling an independent entrance both to the street and the hall. Mr. Westgarth then showed that very small weekly payments would cover the expense and create a reserve fund, so that such buildings might be tenanted by the humblest of the poor. The arrangements for the purposes of cleanliness, order, and morals, would, he thought, be provided for by a committee of management.

EUSTON BENEFIT BUILDING SOCIETY.

Mr. G. J. HOLYOAKE read a paper "On the Imitable Features of the Railway Benefit Building Society of Euston." This society has been in existence fourteen years. It was instituted and is managed by the railway authorities at the Clearing House, Euston, for the benefit of their *employés*, but it is not confined to them. During fourteen years it has given its members in dividend and bonus 7½ per cent. per annum. It has repaid to its depositors upwards of £38,000, and has realised for them profits of upwards of £7,000; and has paid as interest on loans upwards of £2,000, showing a gross profit of £10,000 on savings—and that chiefly among a class who do not usually save, mainly because the machinery whereby

they might invest is not adapted to enlist their interest and win their confidence. The gross value of the house property it has enabled its members to purchase, is £70,000. And the losses of the society have not amounted in fourteen years to £40. The table of payments to be made by borrowers is embodied in the rules, and it represents the total amount which they are called upon to contribute. However high the rate of interest in the money-market, this society continues to lend its money to members as if no such pressure existed. There is no bidding for advances; no premium or entrance fees payable by borrowing members; the costs attending the survey of property upon which advances are made, the investigation of the title, and the preparation of the deeds required by the rules, are borne by the society. It is open to all persons, whether connected with railways or not; and advances are made for the purchase of property situated in any part of the kingdom.

SAVINGS BANKS.

Mr. W. W. Morrell read a paper on "The Proper Sphere of the Savings Bank, the Penny Bank, and the Post Office Savings Bank, as illustrated in the city of York." He stated that the Savings Bank was established in July, 1816, the Penny Bank in June, 1854, and the Post Office Savings Bank in 1861. With regard to the former a large number of persons would gladly have availed themselves of it if suitable facilities had been afforded. For a savings bank to be open at mid-day, and closed in the evening, was as great an anomaly as for an ordinary banking establishment to be closed on the market day, or a place of worship on the Sunday. The deposits at the York Savings Bank had decreased in amount. In 1860, they were £39,976; in 1861, £36,882; in 1862, £34,674; and in 1863, £33,773. At this rate of decrease 25 years more would see the last of this useful institution. The number of depositors was reduced from 7,581 in 1861, to 7,385 in 1863; and the last year's statement contained the item of £241 transferred to the Post Office Bank direct from the Savings Bank, and a much larger sum has indirectly changed hands. In 1854 the York Penny Bank was established, and, as the result of 10 years' operations, £16,111 had been deposited, and £15,094 withdrawn, and the payment of this large sum had been accomplished without a single case of fraud or personation. Of the £1,016 on hand, £850 is invested in railway debentures, and the profit on the interest, after paying to the depositors, provides for the expenses. The depositors never were so numerous as during the past year. The Post Office Savings Bank was established in 1861. It was one of the first of the 300 banks opened on the 16th of September, 1861, and a very satisfactory result had been attained. For the fifteen months ending 31st December, 1862, the number of depositors (exclusive of closed account) was 552; the deposits were

£6,042 5*s.* 5*d.*; and the withdrawals £1,504 1*s.* 4*d.*, leaving a balance due to the public of £4,538 4*s.* 1*d.* The twelve months following, on 31st December, 1863, the number of depositors had increased to 898, the deposits to £6,402 5*s.* 3*d.*; the withdrawals were £3,198 9*s.* 2*d.*, and the balance then due was £7,742 0*s.* 2*d.* The author contended that the establishment of all these, or even more, similar sound institutions would not injure, but rather benefit, the others, by directing attention to their objects, and stimulating all to a wholesome competition. The managers of the penny banks throughout the country must not think of discontinuing their operations, and transferring their customers to the Post Office banks, and he reminded the conductors of each of the institutions in question that they had one common object in view, that the field was amply wide enough for the energies of all, and the only rivalry should be to see which could accomplish the most beneficial results.

LANCASHIRE PUBLIC WORKS.

Mr. Rawlinson, C.E., read a statement on the public works now being carried out in the manufacturing districts. Mr. Rawlinson spoke highly of the aptitude of the factory operatives for this kind of employment. He was sorry to think it was probable that there would be another winter of severe distress in those districts; but, on the other hand, it was satisfactory to know that there were 980 places where the destitute might be employed on public works, and that there was above a million of money available for paying them. Mr. Rawlinson gave details of the system adopted under his inspection.

MISCELLANEOUS.

Mr. James Freeman contributed a paper "On Public Dining Halls." After noticing the success of the movement in Glasgow, where there are about twenty dining halls in operation, and returning a fair profit on the outlay for establishment and working expenses, the paper gave an account in detail of the origin and working of the two dining halls established in Birmingham, and now conducted by a limited company, under the direction of the mayor, Mr. T. Lloyd, M.P., and other gentlemen. The first hall, capable of seating 150 people at once, was opened in June, 1863; the second in April, 1864. The capital of the company is £5,000, which will require to be extended if it is found necessary to open branch halls, as they will have to be built in the proper localities. The Birmingham halls have been fitted up and are managed with every attention to comfort, cleanliness, and good taste. They

provide separate accommodation for women. They are open from 8 A.M. to 8 P.M., supplying breakfast and tea as well as dinners. An excellent dinner may be had for 4½*d.*, of soup, meat, potatoes, and pudding. Excellent tea and coffee are provided, but no beer. The average daily number of visitors is to the first hall during 14 months over 360, to the second during 5 months over 420.

Mr. JAMES COLSTON read a paper on "The Domestic Servants of the Present Day," in which he pointed out the causes which have produced the generally acknowledged fact that, "the servant of the present day is not, in character and qualifications, the servant of fifty years ago." These causes, Mr. Colston justly observed, were not special to the class, but were at work throughout the whole of society. The restless desire for change and for so-called better position pervaded all ranks. There was one special cause for the incapacity of servants which he remarked upon, namely, that while all mistresses were anxious to obtain accomplished and experienced servants, almost none were willing to teach them. Training schools for servants gave very small results, not worth the cost; every household might be to some extent a training school. The remedy which he proposed was that there should be in domestic service, an apprenticeship or probationary service, similar to that which exists in other departments of labour, and that servants should be required to produce certificates of such service before they could set themselves forth as sufficiently qualified. This paper has been issued in a separate form.*

Mr. T. H. HARTLEY read a paper on "The Importance of Apprenticeship." He proposed the establishment of homes for apprentices, similar to one which has been in operation at 26 Page Street, Westminster, for the last fourteen years. Boys are taken as apprentices, and placed in a small house in which a person resides connected with the works, who acts as a master; his wife is the superintending matron, and the control of these lads is placed in their hands. They are called in the morning to go to their work; they return at stated times to their meals, which are always ready for them. After the work is over, there are books and newspapers for them to read, or occupation is found in writing and drawing. They are allowed full liberty of ingress and egress, being fined, however, if not in by a stated time, which varies according to the season; and they are allowed a small sum a week for pocket money; they are placed in a position which must have a very material effect in qualifying them to fulfil their duties properly when arrived at manhood. Mr. Hartley proposed, 1st. That some competent person or persons should be appointed in the different towns and provinces whose business it should be to perform duties similar to those of the Chamberlain of the City of London.† 2nd. That houses should be provided for all apprentices, with a master and mistress over each

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* Edinburgh: Colston and Son.

† See *Transactions*, 1862, p. 183.

to superintend the necessary domestic arrangements. 3rd. The masters or employers of these apprentices to provide work for them, and pay for their support in their homes.

Mr. YATES read a paper "On the Temptations and Dangers to the Youth of both sexes in London and our Great Cities," in which he stated that a society had been formed, under the presidency of Lord Shaftesbury, to assist in enforcing such laws as have been enacted for the suppression of public immorality. Mr. Yates noticed with approval the Act for the early closing of public-houses and refreshment rooms, of last session.

TAXATION.*

The papers on this subject by Mr. Pollard Urquhart, M.P., and Mr. Noble will be found at pp. 635, 643.

DISCUSSION.

The CHAIRMAN (Mr. Hastings) said that before commencing the discussion on the papers that had been read, he thought it necessary to say one word in reference to an observation in that of Mr. Noble, that although a resolution recommending the appointment of a sub-committee had been passed by this Department of the Association, under the presidency of Sir James Stephen, no action had been taken on the resolution. That statement was not correct. A committee was appointed; it met, and several useful discussions took place at its meetings. It could not agree on a report, but it caused valuable papers to be printed and circulated amongst the members of the Association.

Mr. BRALY observed that Mr. Noble had stated that the substitution of direct for indirect taxation, and the liberation of commerce, would lead to the mental, moral, and social elevation of the masses. Mr. Noble had also said that the reduction or repeal of duties on any article increased the consumption of it. Had he considered the effect on the liquor traffic, from which £20,000,000 of revenue were annually levied? If his argument that increased consumption followed the reduction or repeal of duties were correct, how would the removal of the duties on wine, beer, and spirits improve the social and moral condition of the masses?

Mr. ELLIOTT said all parties agreed that the necessities of the State should be provided for out of property in some shape or other. He quite agreed that indirect taxation was a double burden upon the ratepayers; that it almost taxed a man in the inverse ratio of his ability to pay; and made a clerk with £100 a year and a large family, pay more than his neighbour who had none, or a rich bachelor with £3,000 a year. But look at the injustice of extracting the State revenue from land and from no other source. One man might have £100,000 invested in land producing him an income of £3,500, or, at the very most £4,000. Why put a tax on the £3,500 produced by £100,000 invested in land, and leave an income derived from £200,000 invested in some other way free? Another man might have £100,000 invested in a brewery producing him an income of £7,000; and on what principle of fair dealing could the £3,500 be taxed 6*d.* or 1*s.* in the pound and the £7,000 from the brewery be left untouched? "Oh," it was said, "but look at the risk and the responsibilities! The land is a safe investment—the brewery an uncertain one, which subjects the brewer to great excitement, and involves much stress upon the mind, whilst the landed proprietor has no such trials." But gentlemen would admit that it required no great deal of intelligence, and involved no particular stress on the mind, to be at the head of a large

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* See *Transactions*, 1858, p. 672; 1860, pp. 43, 887; 1862, pp. 763, 817; 1863, p. 863.

brewery or banking concern, and derive an income of £7,000 from it. If they taxed an income of £3,500 from land 6*d.* in the pound, they ought to tax the income of £7,000 from the brewery double that amount. If what he said were true, it was strictly applicable to small traders and retailers, who, in a majority of instances, were perfect monopolists. He could put his finger on a small trader who, with great facility and very little trouble, was earning £7,000 a-year. And was it not most unfair, most unjust, and most illogical, to say that such as he should be exempted from taxation? He fully admitted that direct taxation was better than indirect taxation, and that it would be a very desirable thing indeed if the whole income of £60,000,000 were derived from income, going down to £1 a-week, and taking from the labouring man 6*d.* at once, instead of making him pay, as at present, 1*s.* But they could not get it from him. In order to get 6*d.* they must make him pay more; and if he were taxed 2*s.* instead of 1*s.* he would then pay his fair quota towards the necessities of the State. The landlord, besides his 6*d.* or 7*d.* in the pound of income tax, had to pay a whole host of local taxes. He had to pay heavy poor rates, because working men earning two, three, or five pounds a-week led irregular, drunken, and immoral lives; he had also to pay heavy gaol rates from the same cause; so that the working classes did not pay their fair proportion of the expenses of the State, considering how large a portion of those expenses was occasioned by them. The pauper and criminal classes cost about £15,000,000 a year, and the class out of which the criminals and paupers came ought to be taxed. When working men became steady, sober, and industrious; when they took care of their wives and families, and sent their children to school at their own expense, it would be time enough to talk of relieving them from indirect taxes; but, in the meanwhile, it was most true that, as Franklin said, for every shilling the Government took from them, they taxed themselves two by their immoral and improvident habits. Practically, there were no means of reaching the whole community excepting by a mixed system of direct and indirect taxation; and he thought the landed proprietor ought to be taxed less than at present, instead of more. He thought the propositions of Mr. Urquhart and Mr. Noble, neither just, reasonable, nor practicable.

Mr. HASTINGS (having resigned the chair), said he was desirous of offering a few remarks on one portion of the question before the Department. Mr. Noble, in his very valuable paper, had referred to an opinion put forth by Mr. M'Culloch, that we have no right to demand the repeal of customs duties on the ground of free trade, so long as there was nothing prohibitory of importation. Now that remark would apply to any tax that stopped short of the prohibition point. If he apprehended the free trade theory rightly, we should say that instead of having free trade, we have taxed trade. It would not be said if a man was relieved from heavy fetters and placed in lighter ones, that he was free. The lighter shackles would enable him to walk more freely, but he would walk much better still without any shackles at all. Some time ago he resided for a short time in Belgium, and had opportunities of observing the operation of the *octroi* system there. All the municipalities then had the power of raising taxes on articles that came into the towns, precisely as in this country articles coming into our ports are taxed. He had seen the effects of this system in diminishing trade, and rendering people unwilling even to go outside the walls, for if they did, they were searched on their return, and if they had bought anything elsewhere, were stopped at the toll gate to pay the tax upon it. The system operated most prejudicially, both on individuals, and on the trade of the towns. But now the Belgian Government had abolished this system. In the teeth of great opposition, and all sorts of objections as to the alleged impossibility of raising the necessary revenue for municipal purposes otherwise, the most eminent political economists and financiers in Belgium came to the conclusion that it was absolutely necessary to abolish the *octroi* system; by one comprehensive measure it was swept away; and anyone who had been in the country formerly and visited it now, would see the happy effects of its abolition. It seemed to him that the same effects would be produced on a greater scale by throwing open the gates of this country, *i.e.* its ports, to foreign commerce. Every customs duty hampered trade, more or less; and all of them were obstructions to the storing

up of national wealth. No argument could be legitimately urged against the substitution of some form of direct taxation for them, that was not urged for the retention of the *octroi* system in Belgium. He did not say it was possible to sweep them all away at once; but they might proceed gradually, cautiously, yet steadily in that direction. The undoubted result of the discussion they had at Bradford in 1859, was, that next year, the Chancellor of the Exchequer swept away from the tariff a great number of the customs duties then denounced. He was always glad to see this subject brought forward at the meetings of the Association, for there was none more specially or more intimately connected with the well-being of the people, than financial reform. They were told in the address of the President of the Health Department, that a considerable proportion of the disease and death that occurred in early life was occasioned by want; parents not having sufficient nourishment themselves, reproduced their own weakness in their children. Deficiency of food was thus one of the causes of disease and death; and he said of every tax tending to produce that deficiency, that it was one which ought to be swept away. It was very well to say that a a customs duty only took 6*d.* or 1*s.* out of the poor man's weekly earnings; but that was not all, for whilst the rich man purchased his tea and sugar at wholesale prices, the articles bought by the poor man went through many hands, with additional charges upon them from each, so that in this way he paid for them out of all proportion more than the rich man. He would conclude by saying that looking to the great object of the Association he knew of nothing more likely to increase the general welfare of the people of this country, than the abolition of every customs duty on articles of consumption.

Mr. Jeffery referred to that part of Mr. Urquhart's paper which referred to the condition of Holland a century and a quarter ago, described by the merchants of Amsterdam as declining on account of heavy burdens on foreign commerce; and he thought it somewhat extraordinary that, in 1864, an eloquent gentleman, holding municipal office in the metropolis, should say, in effect, that these Hollanders were altogether mistaken in attributing the decline of their trade to heavy burdens upon it, and that the working classes, in order to their contributing their fair share of national and local expenditure, ought to be made to pay 1*s.* or 1*s.* 6*d.* where they now pay 6*d.* It had been observed that, whilst direct taxation might be unjust, indirect taxation must be unjust. Even Mr. Elliott admitted that it was so; but then he said that the working man led so profligate and improvident a life, that he must necessarily be subjected to this injustice. But what said Mr. Elliott of the times of Lancashire distress, when the poor-rates were so largely increased? Would he say that that distress was occasioned by the improvidence of the working classes, and that they ought to be made to pay for it? When the "George Griswold" arrived with its cargo, Government said, in effect, "These are necessaries of life coming from another country, and we dare not tax them, because they are to find their way into the mouths of a suffering people;" and that very admission was a condemnation of every tax or import duty upon a necessary of life. Did not these taxes produce pauperism? Did not every duty imposed on necessaries of life increase the difficulty of obtaining them? Did they not, by diminishing the demand for labour, and reducing wages, tend both to produce pauperism and crime, and thus increase both poor-rates and gaol expenses? Mr. Elliott tried to enlist their sympathy in favour of the man who had invested £100,000 in land, and got but £3,500 from it, as being very hardly used because taxed directly at the same rate as other people. But suppose that four persons did each invest £100,000 in different ways; all that Government had to protect was the £100,000. A invested his capital in land, which yielded him 2½ per cent.; B was a tradesman, who invested his to yield 10 per cent.; C a manufacturer, who got 20 per cent.; and D a merchant, who might, perhaps, make 30 per cent. Now, he asked Mr. Elliott whether he would tax the tradesman, who got 10 per cent. for his £100,000 four times as much, the manufacturer eight times as much, and the merchant twelve times as much as the landed proprietor, who got 2½ per cent.? (Mr. Elliott: Quite so.) Then Mr. Elliott would increase the tax exactly in proportion to the risk of the capital invested, and the uncertainty of the proceeds. Mr. Hastings had referred to Bradford; he (Mr. Jeffery) had reason to know that in consequence of that discussion, most of

the 439 duties there described as unproductive stumbling-blocks to trade had been abolished, and the number of articles on the tariff, which in 1842 stood at about 1,200, was virtually reduced to 15, exclusive of articles not enumerated in the finance accounts. The result since 1842 had been a threefold increase in the foreign trade of the country. Now, less than 4*d.* in the pound of income tax would enable the Chancellor of the Exchequer to sweep away every customs and excise duty, excepting only those on spirits, sugar, tea, tobacco, wine, and malt. The total produce of customs duties last year was £23,039,476, towards which spirits, sugar, tea, tobacco, and wine, contributed £20,937,059, leaving only £2,102,316 for all other articles. The total produce of the excise duties was, in the same year, £18,409,107, to which malt and spirits contributed £15,785,250, leaving £2,623,857 for all the rest. The two sums for all duties of customs and excise, excepting those mentioned, amounted to £4,726,273; so that an income tax of 4*d.* in the pound would more than cover them. Much was said by public men and public writers of the demoralising effects of the income tax; but was there no demoralisation in customs and excise duties? They knew of such things as convictions for passing false entries.

Mr. Fisher: The most eminent jurists had laid it down that taxes should be levied from the whole community with distributive justice. He would call attention to a recent parliamentary return as to the relative taxation of rich England and poor Ireland. It appeared that the rate of taxation per head, in the United Kingdom, was 4*s.* 2*d.*, whilst in Ireland it was 6*s.* 5½*d.* Sir Richard Phillips had said that taxation amounting to one-fifth was unjust, to one-fourth oppressive, to one-third revolutionary; but Ireland, in proportion to income and population, instead of paying 3*s.* in the pound, as proposed for England, was paying nearly 8*s.* in the pound. He should be very glad to see direct taxation the rule, but he could not agree that the merchant making 30 per cent. should pay no more than the landowner making only 2½ per cent. To draw the taxes from the poor was to prevent the accumulation of capital; and he would much rather see the £30,000,000 in the savings banks, where they did not increase the capital of the country, productively invested. He should be happy to see some plan devised by which every man should pay according to his relative ability, and for that purpose he would take either the American plan, or the capitalisation scheme.

Mr. Heywoth said that to tax every man according to his means was desirable; but, the great object should be, so to levy the taxes that they should not prevent the increase of the fund from which taxes were paid. Two or three and twenty years ago, the revenue failed to equal the expenditure of the kingdom. To supply the deficiency, 5 per cent. additional on the taxes was imposed; but the 5 per cent. did not realise anything like the amount anticipated. The experiment was repeated with a similar result, and then Sir Robert Peel devised a scheme for putting more money into the pockets of the people, so that they might be enabled to pay the taxes. He imposed an income tax of 7*d.* in the pound and took off about £11,000,000 of indirect taxes, thus relieving trade, and enabling the people to contribute revenue with greater facility. The advocates of direct taxation and freedom of trade aimed at enriching the whole country, and placing all mankind in the best possible condition. As the only effectual means of increasing the comforts of the poor, they wished to remove all taxes on articles of consumption, which doubled or even trebled the natural prices. A three or fourfold increase of our imports caused three or four times as many men to be employed, and the extra demand for labour gave them better wages, thus improving their condition, and giving them more command of the comforts and necessaries of life. They had seen the results of a partial adoption of this policy in the increase of our foreign trade from about £130,000,000 or £140,000,000 to more than £444,000,000.

Mr. R. D. Urlin: On the question of free trade, Mr. Hastings rather implied that to be free, trade must be liberated from taxation. But his (Mr. Urlin's) notion of free trade was, that it was free when duties were levied upon it only for revenue, and not for protection. Custom-houses could not be abolished. If they were, a large amount of literary property in this country would be destroyed; for only Government officers could prevent the importation of pirated 1*s.* editions of English works published at 4*s.* He was by no means disposed to dispense with such duties as those on spirits, wine, beer, and tobacco; on the con-

trary, he thought that, in the interests of morality, those duties ought to be increased. Here were £32,000,000 of customs and excise duties, and he had never seen it stated how that amount of revenue was to be otherwise raised. A mixed system of taxation was the best, because, with several sources of revenue, only one might be affected injuriously, and the rest left untouched by any emergency.

Mr. J. H. RAPER said he was glad that the burden had been placed a little more on Ireland, and for this reason, that whereas Ireland had formerly paid only 7*s.* 9*d.* in the shape of her proportion of duties on tea, sugar, coffee, &c., she now paid 15*s.* 8*d.* He was delighted with that proof of improvement in the physical and moral condition of the people. In the general principle of both the papers he concurred; but he thought the Association, whilst heartily agreeing as to the project of abolishing the duties on tea, sugar, and coffee, would recoil from giving such articles as spirits, beer, wine and tobacco, entire immunity from taxation.

Mr. URQUHART said, in reply, that the duty on tea had been reduced, but the importation had but slightly increased. It amounted to about 70,000,000 lbs., which was little more than 2½ lbs. per head of the population, whilst in Australia it was 13 lbs. Supposing it were raised to 10 lbs., the consumption would be 300,000,000 lbs.; the manufactures to pay for which additional quantity, would give employment to many more people, and diffuse greater prosperity over the whole community. The same things might be said of the increase of every other article of import. They were told that the Custom-house could not be abolished, because, if it were, piratical editions of English publications would be largely imported; but that objection could be easily met by treaties of international copyright, which would be of great advantage to authors. Mr. Elliott wished to know what was to be done with brewers, and whether they were to escape taxation; but as brewers generally occupied premises subject to taxation, they could not be said to be altogether excused; and they must recollect that as, in the long run, rents always adjusted themselves to taxation, the less people in possession were taxed the more rent they paid, so that the matter was about as broad as it was long. As a landowner, he was quite sure that no people would gain more by the change he proposed than the landowners; and he was equally certain that there was not a single landowner in the country that would not rather have his estate as it was now, subject to an income tax of 7*d.*, than he would have it as it was in 1842 without an income tax. Whatever tended to increase trade was, in truth, a landlord's question.

Mr. NOBLE observed that the question as to the spirit duties was not in any practical form before the meeting. Often had he heard the remark, "I am in favour of the theory of direct taxation—but it is impracticable." If those who made that remark only took the trouble to investigate the question, they would arrive at the conclusion that it was both practicable and easy. Many persons referred to the income tax as deciding the question between direct and indirect taxation; now, the Financial Reform Association did not pretend to say that the income tax was the best possible form of direct taxation; but this they did say, that it was the best tax we had. There was no objection to it that did not apply with still greater force to all other taxes. As to literary piracies, Custom-house officers did not keep them out, as he knew by experience.

ADDRESS BY THE CHAIRMAN.

Mr. HOLLAND, M.P., Chairman of the Section, opened the proceedings by an address on the social effects arising fromt he introduction of machinery—more especially the application of steam power—in the culture of the soil. He said, in the limited area of this country there was a continual increase of population, and a large portion of land every year was taken from the producing area for houses, railways, and other wants of civilisation; so that, while

more was required from the land, the space from which the produce was to be obtained grew less. This required the application of machinery and steam-power to land, as the power-loom was called for to replace the common hand-loom in manufactories. The farmer hitherto had been more or less at the mercy of the seasons, and that was one cause of the slow movements in agriculture compared with the progress that had taken place in the sister sciences. There were other causes—including the isolated life of the farmer before railways, the uneducated state in which he lived, the feudal rights by which he was still encompassed—trammelling his efforts to advance, and preventing his being a free agent in many ways. The rural districts at the commencement of the century were most depressed. The new Poor Law was the salvation of the country, and most beneficial to agricultural labourers. That law extended its protection to the really necessitous, increased the comfort of the aged and infirm, and raised the independent labourer; while the foundation of boards of guardians elevated the yeomen, accustomed them to the transaction of business in public, and under circumstances in which the conduct was scrutinised and the character formed. Without its previous existence and operation we should not have been able to compete with other countries in the production of food on the establishment of free trade. From this period the introduction of machinery in agriculture became necessary. As a result of free trade we have the steam-plough. Steam tillage was the prominent triumph of British agriculture; by it land previously drained was ploughed up in a third of the time before necessary to cultivate it for inferior crops, while the saving in horse labour had been very satisfactory, and almost met the working expenditure of steam-power and the capital required in establishing it; while the treading of horses, which did much harm, was obviated, and the ill consequences of bad seasons were overcome. Great economy of labour was obtained, as well as an increase of produce; but all this could not be accomplished without a great outlay of capital. The farmer of the present day was much better educated than farmers of former days. He required more from his landlords—desiring that fields might be made of proper shape and size; that hedges and timber be cut down so that he might have full play for his machinery; that the buildings should be adequate for his wants; and that he should have a greater security of tenure and freedom from feudal rights and customs. The farmer now selected his men, not because they happened to be parishioners, but because they were suitable to his requirements. The class of labourers was changed through the introduction of steam-ploughs. They were no longer sluggish and unwilling, as in former days; they required to be well housed and cared for. His experience told him that those connected with steam-ploughing and machinery required and obtained good cottages, and the most powerful thing in elevating the character of working men was the providing for them superior habitations. By the management of steam machinery labourers had become so altered that he had been able

to shut up a public-house, the men enjoying the evening to a far greater extent in a large room provided with fire and light, amid social enjoyments, whilst the evils of the public-house and drunkenness were reduced among them. Example had had, and was having, much effect also on labourers' employers. In his own case he had a large steam-plough and two other steam-engines at work, and had not, in any case, been obliged to call in an engineer; the whole of the steam work in his occupation being done by labourers. The population of this country employed in agriculture was on the decline. In 1841 the rural population under the head of agriculture was—males, 1,082,165, and females 56,398, making altogether employed in agriculture out of doors, 1,138,563. In 1861 the males were 914,301, females 43,964, making altogether 958,265, being a decrease of 180,298, from which many were in the habit of arguing that the country was in a state of decay, whereas it was just the reverse, the decrease arising from migration to manufacturing districts. It showed how well timed was the introduction of steam-culture, coming at the moment when the population employed in agriculture was becoming less, owing to the advanced state of the manufactures of the country, whilst the area was diminished in which food was to be produced, and whilst the wants of the increased population required them to use every exertion to meet the demands made upon them. The influence of steam culture had been to give the men better wages, superior home accommodation, and to make them demand, as necessaries of life, articles which were denied to them as luxuries a few years ago. As the area of cultivation became less, as it obviously must, the cultivators of land would rank as manufacturers of food, and the labourers would be skilled and intelligent artisans.

CO-OPERATIVE FARMS.

Mr. JOHN GURDON gave an account of the co-operative farms established by him at Assington, Suffolk. He stated that in order to raise the condition of the labourer in his class, and lift him above poverty and the crime that springs from it, he was induced in the year 1829 to let an off-hand farm of 100 acres more or less to twenty labourers of his parish, offering to lend them capital without interest to cultivate the same, subject to rules and regulations as follows:—That each member should advance £2 as guarantee. That a manager, accountant, and stock-keeper be selected for conducting the farm. That the capital be paid back as the profits arose. That quarterly meetings be held for transacting business, &c. That all necessary articles be provided by the committee for the use of the members. That if any member be convicted of fraud, or any other crime, he should forfeit his share, which should be sold, and the moneys arising therefrom should form a reserve fund for contingencies. Other salutary rules were added as to advancing

members, in case of unforseen misfortunes, loans upon their shares, the disposal at death of such shares, filling up vacancies, &c. Upon the members subscribing these rules (Mr. Gurdon continued) I agreed to let the farm for the rent of land letting at that time, to be altered every twelve years during my life. As these members were now deprived of all parochial allowance, I called upon each member to insure in the Stoke and Melford benefit club for 10*s.* a-week during sickness, 5*s.* a-week after sixty-five, and £5 for funeral expenses. The aforesaid club was established by me in 1828 upon Government principles; and owing to the energy and unwearied attention of the local clergy, who act as directors, we have at this time upwards of £25,000 in hand. After a few years this society paid me off all the capital I had lent them, which induced me to let another isolated farm to thirty-four other members. This society has also paid off the moneys I lent to them; so there are now in the two farms fifty-four labourers farming about 350 acres, free of debt, and possessing as their own property all the stock and crops on the said land; and as each share has been valued at £50, I have bestowed upon these 54 labourers the sum of £2,700, at the only loss of the interest of some £1,000 for a few years. Farmers at first were startled at my project; but when they found I was not taking these labourers out of their former position, that they had the use of the men as before, only a certain number being required for the cultivation of the farms, and that they moreover had men they could depend upon, because conviction of any theft would deprive them of their share in the farms, and also that these labourers were exempt from any parish allowance, they altered their tone, and were willing to confess that the plan had every advantage without one drawback. The societies have established a storeshop with a brewery, which I am now building for them after the Rochdale principle, and I hear they expect to pay their rents from their savings, by paying ready money and getting every article at cost price.

From the numberless letters I have received from practical economists, not only in England but in many parts of the Continent, I feel assured that the plan will be adopted. I have frequently attended their annual meetings, and been much struck with their business habits and shrewd remarks, while their better mode of living gives them power to fulfil their work with spirit and energy. I should add, that no land is better farmed or rents more punctually paid than by these labourers.

COTTAGES.

Mr. C. W. Strickland read a paper on "Cottage Building," in which he referred to what has been done towards arriving at a knowledge of the best principles of cottage construction, and pointed out what was chiefly needed at the present time to extend that knowledge and secure its practical application. The subject of this paper

servant received the main portion of his wages at the close of his engagement. He then went off to the statute fair, and squandered away a large proportion of the sum just put into his hands. Quarterly payments might induce the more prudent to lay by something for future needs, which was now rendered an easy matter in the remotest country districts, owing to the wise and beneficent establishment of post-office savings banks. It was devoutly to be wished that the statute fair system might be generally abandoned, as it had been in some of the southern counties; at any rate an amendment of the system was imperatively called for. He thought the influence of landlords would be most effective. It was not likely that the evils of the present system would ever be thoroughly abated until landlords were awakened to the necessity of building on their properties commodious cottages fit for the habitations of family men; and establishing the poor in homes within easy reach of the farms upon which they are employed. Canon Randolph, in conclusion, alluded to the establishment of register offices, and expressed his belief that there ought to be a register office in every market town.

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